

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 22, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, February 22, 2001 at 12:00 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; Kerry Coulter; Frank Garofalo; Bud Hentzen; Bill Johnson; Richard Lopez; John W. McKay, Jr.; Ron Marnell; Susan Osborne-Howes; George Platt; Harold Warner, and Ray Warren. James Barfield and Chris Carraher were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker; and Karen Wolf, Recording Secretary; Valerie Robinson, for Unified Zoning Code.

1. Briefing by Donna Goltry on proposed Zoning Code Amendments

GOLTRY "The subject of the briefing today is the Unified Zoning Code amendments, both substantive and clarification types of amendments that we have been working on. Those of you who sit on the MAPC Advance Plans Committee know that this is a monster. We have been working on it for several months. We have had a number of meetings where we have gone through all of the different parts of the Zoning Code to look for little errors in it to try to find them, and also to work on some changes that were driven, primarily by the impetus. You have a little cover memo that you received and it shows the impetus for the Zoning Code amendments—they were two-fold. One was to streamline redevelopment and new construction in older developed areas of the city and this was in order to encourage neighborhood revitalization in our core areas. The second impetus was to encourage increased density and flexibility of housing types, particularly in our lower density single-family districts, to try to kind of open up the 'SF-6' district, if you will, to be a little bit denser than it had been in the past. That is what kind of got the train rolling out of the station on the Zoning Code Amendments, and it seems to me that they have taken on a life of their own, and in the process, I think staff will tell you that it is about to take away my life.

I have a fairly short time, I feel like, to introduce this briefing to you today, and this is to let you know that the MAPC Advance Plans Committee has faithfully been coming and meeting at 7:30 every Tuesday or every other Tuesday morning for about 10 weeks where we went through things page by page. We have suggested one round of amendments and then we would go back and revise things and do it again and again and again. What you have in front of you today is primarily the draft that we will be using for the public testimony that will be on March 8 when we will be having a public hearing on this Zoning Code issue, so this is considered a briefing today and not a public hearing. I have already found a mistake in it, I saw it this morning, so I know that there are some minor changes that still need to be made.

Let's go through the ideas of streamlining new construction. You would think, since this was driving this train for the Zoning Code amendments, that it would be the lions' share of the work that is both involved, both in terms of the content of the changes and the time we spent on it, but actually not. Actually, the amendments that do that are very simple and straightforward and I have given you some references on the cover memo to show you where you can find those items and what has been changed. One is off-street parking. I am not going to go through all of this in this slide presentation. Some of you who may have been not on Advance Plans may have seen this slide presentation that I did the very first meeting, and Advance Plans did see it, but we went through some ideas of parking lots and clustering of subdivision and side-lot setbacks. So I am only going to highlight a few of the slides today for your benefit.

As I said, since neighborhood revitalization was at the forefront of our efforts, we began with the charge of looking at making some specific regulations tailored to the older core area. So I started out looking at the downtown area, the 1919 city limits, if you will. We started from that format that that would be where we would be trying to do some streamlining on the regulations. As we sat and discussed it in the middle of MAPC; Advance Plans; and among staff, we decided that these ideas would work throughout the City, so what you see is they aren't specifically tailored to the 1919 city limits any more, but they are tailored to the idea of making development easier throughout the older built up areas of the City. We talked about different kinds of parking arrangements you can have. Basically, you have 3 ways to go when you provide parking. You can provide parking on site; you can provide parking off site; and you can provide parking through shared parking agreements with other users who may have different peak hour parking needs than you do.

(Indicating) This is an example of a shared parking arrangement in the CBD. I am going to flip through some of the slides quickly. Here would be an off site parking lot that I found at the northwest corner of Waterman and Pattie. The little sign there says that it is parking for that user. The building is one block to the north. One of the suggested changes we are making is that off site parking be more flexible than it has been in the past. In the past, you could provide up to 50% of your parking needs with off site lots, and if you wanted more than that, you had to go to the BZA. This would allow administrative determination to go to 100% of your parking needs from off site parking.

The next subject is side yard setbacks. Another thing that hampers re-development in the built areas of town is inadequate side yards. They don't meet current side yard requirements. Perhaps they were built a long time ago, or for whatever reason, they don't have that mandatory 6 feet between each lot. This is an example of a shared drive where I doubt that there is 12 feet between the two houses.

In response to this issue, we have suggested some changes to Section V of the Code that would give some flexibility in reducing side and rear yards. In particular, one of the things we talked about, and if you want to kind of look at some of

these slides of the houses you can see that in a lot of the older areas we do have pretty narrow side yards between the houses. Usually, it works pretty well. (Indicating) That one is incredibly narrow. I would bet that there isn't probably 6 feet between them. (Indicating) This is a house that is located on south Pattie, where they have an addition in about the middle of the lot. Whereas what you see in the typical older areas is always the accessory uses. The uses that aren't attached to the houses have been allowed to get to within 3 feet of the property line on the side yard, so the garage was closer to the lot line whereas the house was supposed to stay a little further back.

Osborne-Howes arrived at the meeting at 12:22 p.m.

What we have built in to the suggested changes, one thing we did talk about that is critical is that if you are going to reduce these side yards, it should be in the back half of the lots. We shouldn't be reducing the side yards down to a really small amount in the front, where it is more visible. So you will see that built into the suggested changes. I believe they are on Page 172. (Indicating) This is an example of a house on Fairview where they have done an addition, but the addition is towards the back of the house. And since it is an attached addition in the back, it is not as obtrusive as if it were a really narrow side yard clear up to the front. (Indicating) This is an example of the opposite approach. This one is setting close to the front. That would not comply with our suggested language of keeping it in the rear half of the side yard.

The next thing we want to talk about is increasing density and flexibility of housing types in our Single-Family district. Here is the major suggestion: to go from 'SF-6' to 'SF-5'. Now, you all have gotten advance packets. I believe it was dated January 29, which was the proposed changes until we had our final meeting. We had some more staff input from various departments, so I am sure you are all aware already that we are suggesting to go from 'SF-6' to 'SF-5'. That means that you could have lots as small as 5,000 square feet for single-family dwellings.

I did a little windshield survey of the City. First, I did a little work on maps to start with. Let's see if I can find any 5,000ish square foot lots that exist in the City of Wichita. So, I spent one afternoon kind of digging through all of our old map records. What I found is that in that era of transition, when you went from having long, skinny lots that fronted on a grid pattern of a street where the lot increment was usually 50 feet across for the lot and 130 to 140 feet in depth. Then, when you go into the 40s and 50s, instead, you begin to have the new lot arrangement, where you end up with wider lots and you have more attached garages and the garages set closer to the front of the house. In those cases, the lots became wider and not as deep.

Bill Johnson arrived at the meeting at 12:27 p.m.

In the 40s and 50s, you find several areas of the City which have a lot of 5,000 square foot to 6,000 square foot lots because they kind of fell in between the area. (Indicating) That is an example of one on Glen Oaks. So, yes, it can be done. We can do 5,000 square foot lots. But lest we leave that issue with just this historic area, there are some areas in the newer areas of Wichita, built in the Westlink area in the 1980s and 1990s which also have quite small lots, but are your traditional detached single-family dwelling. (Indicating) This is an example of one.

We have also suggested reducing minimum interior side setbacks, which would be compatible if you are going down from 6,000 to 5,000 square feet. Then, would it not also be logical to go from 6 feet as your minimum side yard to 5 feet as your minimum side lot?

The mistake I talked about that I noted this morning is that one thing we talked about is making accessory apartments a more encouraged type of land use by permitting it in 'MF-18'; 'MF-29'; 'B'; 'NR'; 'LC'; 'GC' and 'CBD'. That is reflected accurately on your use table on Page 123. I did omit adding them to the list of permitted uses in some of the independent categories, so I do need to go back and clean that up on the draft Zoning Code. I don't think I will ever get it perfectly right, try as hard as I may. In fact, the harder you try, the worse you do sometimes.

The last point I want to talk about on the front page is that within the staff, as well as with the Advance Plans, we mulled over an idea of mixed use within the 'SF-5' district. Now, mixed use is different than clustering. We already have clustering, which can be done in the Single-Family district. That is where you cluster lots together, but you set aside a comparable area for open space. But when we say mixed use, what we were looking at was the option of encouraging single-family, duplex, patio homes, townhomes, maybe some four-plexes, and kind of a planned, a smaller scale but planned residential development that would encourage a range of housing types being offered in our low-density categories, but where the overall density wouldn't exceed that of 5,000 square feet per dwelling unit.

We kicked it around; we tried putting it in as a Conditional Use. That didn't work. We tried putting it in in the Subdivision Regulations, that was cumbersome as well. Finally, when you have an idea that kind of comes full circle, what we came to the conclusion of was that we should focus, instead, on trying to encourage developers to use the existing residential CUP requirements. If you look back historically, when we were doing a lot of development at the scale of a quarter section land, 160 acres, Comotara, Tallgrass, Reflection Ridge, Huntington Park—all of these were fairly large scale developments. Many of those areas—I know Huntington Park and Reflection Ridge I know for sure do—they are all zoned 'SF-6', and yet it is developed with a range of housing types. How they were able to do that is because they maintained the 'SF-6' density within their overall development, but they bundled their densities in areas within it. So we feel that this is an existing option; to go to a Conditional Use is almost as difficult as doing a residential CUP. Maybe what we need to do is a better job of promoting the use of the residential CUP when it is an appropriate vehicle.

Before I begin turning to all of the miscellaneous other things that have crept into this amendment process, I believe I will pause to take a breath and ask if you have any questions on the first page of the memo?"

MICHAELIS "Does anyone have questions?"

WARREN "On that last item, instead of the CUP, why wouldn't you use a PUD on that?"

GOLTRY "You could do a PUD, too. A PUD is more intended to be a mix of non-residential and residential types of uses."

WARREN "Do you see this as just residential?"

GOLTRY "Yes, and actually, that is a good question. I should have pointed out that one of the minor changes I made in the CUP regulations is to point out something that has always been, and that is that a CUP can be residential, it can be non-residential, or it can be a combined residential/non-residential. Most of our ones that are residential, do have a non-residential component to it, as well. In fact, we have had some amendments that were like that recently: Hanley's residential CUP that added some office uses, and now it is a residential/non-residential. That system seems to be working all right, if we can just focus on it. Are there any questions about streamlining, setbacks, side yards, density—that range of uses?"

Okay, let's turn to Page 2. Now, this isn't an exhaustive list of all of the changes in the Zoning Code, because I didn't want to make the memo too long, but I did want to point out some of the major changes that are incorporated within it beyond the ones that were the impetus for starting the revision. Six to eight months ago, one of the people from a portable storage container company came up and asked 'can we make the regulations easier to have portable storage units in the 'LC' district'? Up to this point in time, we have treated 'LC' as our clean commercial district—the district where we try to prevent a lot of outdoor storage and display, and to confine it certain per cents of the building; ten per cent of the area for outdoor storage and displays only supposed to be 10 feet from the building.

But the portable storage container people approached the City about loosening this up. As a result of that, there has been a City Committee that has met with the portable storage container company several times and from that meeting, there were some recommendations developed. I did take that recommendation to the MAPC Advance Plans Committee and we looked at it. They did some consideration of it—staff has had some consideration of it as well. We have included in the draft some suggestions for the portable storage containers in 'LC'. These are still different from the one we talked about two weeks ago at our last MAPC Advance Plans Committee in a couple of ways. But let me point out some basic things that it does.

The suggested change that you have sitting before you today would allow temporary placement of portable storage containers for 90 days and then at the end of 90 days, they would be removed for 60 days and then they could be placed again in 90 days. Now, if these portable storage containers are placed in this manner, and if they are situated in such a way that they are behind the wall line of the principal building, meaning they are not out in front of the building, but tucked a little bit more behind it—the language says 5 feet behind the principal wall line—if they observe setback requirements of the district within which they are located, which setback requirements in 'LC' aren't nearly as stringent as they are in residential districts, for instance—if they have adjacent property that is zoned 'TF-3' or more restrictive, that is 'SF'; 'RR' through 'TF-3'—have to have at least a 20 foot setback from the property line, the property that is zoned with that 'TF-3' or more restrictive district. If they don't have signs facing the street or the adjacent residential property and if the color of the wall of the storage unit is compatible or inconspicuous with the building that it is temporarily serving, then the outside of the storage unit itself would be considered screening materials.

This differs from what the current regulations are for portable storage containers. Right now, portable storage containers are considered to be outdoor work and storage areas and in the 'LC' district, they must be either screened by materials that are the same as the principal building—so if it is a brick building, it is supposed to have a brick wall; if it is a wood building, it could have a wood wall—or if you don't screen it with those kinds of materials, you can submit a plan to show how you plan to screen it and it has to also have landscaping, which isn't real practical in most cases because you are talking about a portable storage unit set on concrete, and the idea of having a wooden fence in front of it, it is hard to think about putting landscape materials on the concrete.

I have a couple of slides to show you some examples of portable storage containers that are in existence today. Another idea that we are kicking around, and this is in this latest draft you received today that we want to take some more thought on. Another problem is 'let's keep the storage unit up near the building instead of letting them be setting closer to the property line'. So that is another issue to look at. That is one that we just talked about. Another thing is that we need to highlight the fact that they need to stay out of circulation, dry drive aisles and parking spaces. They would not be allowed to use up the required parking or to be setting in the circulation and dry vials.

What is the current situation? Well, I checked with OCI to see how many portable storage containers are out right now on the east side so I could take some slides and show you examples of them. I could find 4 or 5. With this proposed change in the Zoning Code, we can extrapolate that we may end up with a situation that instead of having 4 or 5 containers on the east side of Wichita, we may have quite a few—that is excluding the big one at Wal Mart, which was approved as a CUP amendment where they have the 16-foot high chain link fence with screening around it.

So let me show you the slides of the ones that I did find. (Indicating) This is at the Design Center on east Central between either Erie or Volutsia. This particular one may do a fairly decent job of blending in with the building because it has the light colored material. It has a metal back to this building. Actually, it is EIFS on the adjoining sides, but the side of it is metal. It had a sign on it that I didn't pick up because the tree was right in front of the sign, but the sign did exceed the size limitations that we are proposing in here. It was probably a 2 x 3 foot sign, which would be 6 square feet and we are proposing a limitation of 2 square feet on signage. Its door opening faces Volutsia Street. The property immediately across the street is zoned 'LC', and the front half of their lot where their building is setting, that is zoned 'TF-3'. The property behind; here is the unit, and this is the house and the garage. It is a single-family house sitting next to it. I am not sure why there is no screening wall here because they just did an addition to this building. I do remember having to do landscape plans.

This is another issue that we talked about in Advance Plans. One of the tricky issues here is that you should have had a screening wall between this commercial use and this residential use, but the screening wall is not in place. Something we may want to think about is if you are going to put in these portable storage units and there isn't otherwise already a screening fence on the property line where it belongs, do we need to get this screening fence on the property line?

The next one I found is at 2880 South Hillside. Right now, this one would not be even part of the issue because they are under construction to add an addition to this auto repair site. It is on the corner of Ross Parkway and Hillside in the Plainview area. But this storage container, which is an odd shaped one, it is a small little square guy instead of being a longer one and has been sitting there since well before they went under construction, so prior to them beginning construction, it would have been out of compliance with the 'LC' zoning regulations. It has large signs on the side of it and is sitting in front of the building and is along a major arterial. This placement of this storage container would not comply with our suggested regulations.

This third one is over behind Red Baron's Electronics by the first place on east Kellogg. They have a long one and it is sitting right along the property line. We are lucky in the fact that although there is just in immediate proximity between this parking lot and the single-family residences behind it, this cedar hedge has been growing there for a good 50 years, I would say, so they have improved their screening from the nearby residential, but otherwise, that would be right on the back yard line if they had a patio grill right on the other side.

Okay, and the last place I found them on the east side of Wichita was at Bradley Fair, between the backs of the buildings and the lake. They had a series of them back there. The reason I brought you the pictures of that, since this is a CUP it is a slightly different animal, but it is interesting because at one of our earlier discussions at Advance Plans, we talked about the issue of how many are you going to have between various commercial uses. Are we going to end up with rows and rows of these out in back of all of the buildings? If you look in our draft language, we have a comment that you can only have one per business and that it is not supposed to exceed 10 per cent of the area of the business, unless the business is smaller than 2,000 square feet where they are allowed 200 square feet. There were three of them in a row in back of different users. I think the segment of users would be the ones along where Gateway is, behind there.

That is portable storage containers. I think this is an issue that has been very difficult for me to deal with in terms of we have changed it many times, trying to come up with a way that keeps 'LC' as a clean, commercial use, yet looking at the needs of small scale retailers to compete with the Wal-Marts of the world to provide some sort of temporary storage that they need for seasonal business practices. Related to the portable storage in 'LC', it causes us also to do a little closer examination of the screening requirements in Section IV, which is about on Page 176 of the regulations. We have this enormous long run-on sentence. Marvin wrote me a funny little note back saying 'I think this does it, but is about the longest sentence in history'. So I took a crack at making it an outline form instead.

I ended up taking the screening requirements for all types of districts along arterials and breaking it apart into its basic components. It has screening of outdoor work, storage areas and other ground-level view items. It has screening of roof top mechanical equipment, and the third component was screening of trash receptacles and multi-family 'MF' areas. So I broke it out into outline form to try to clarify that they have had a lot thrown into one paragraph and make it a little bit easier to handle.

Okay, I want to move on to the next item on the page, sexually-oriented business. We have Karen Duranleau from the County Counselor's Office here today who can field any specific questions that you might have on this. You will find that the Zoning Code is just a little racier than it used to be, or maybe a lot, because it is incorporating comparable language to the Adult Entertainment Code that was passed by the County last June, I believe. The idea is that the County is amortizing non-conforming sexually-oriented businesses that are within 1,000 feet of parks, schools, churches, residences and other adult entertainment establishments. Have I missed any from that list? Alcohol establishments. They have also defined night clubs in the county to be establishments that do not offer alcohol. So they are trying to separate the alcohol versus the sexually-oriented business approach. We have tried to reflect this and they have been very helpful to provide all of the input on language on how to incorporate this into the Code.

MCKAY "Donna, all we did, as far as Advance Plans, we just accepted what the legal staffs of both sides said, and that is what is here; what the legal staff said. We didn't try to change it or anything else."

GOLTRY "Yeah. Okay. There are many other changes sprinkled though out the Code and I am sure if you have opened your packet that you got from the 29th, you already know that. And of course, you have more changes in it today and I just told you about one I forgot to get in. Besides which, I will be taking more changes from the input we get from you and from the public before we get all said and done with this."

I am going to highlight briefly. One of the issues that has come up just very recently is that the County is having some issues with the zoning of some of their parks. Their parks include a variety of alcohol related uses. The Sedgwick County Zoo is a good case in point. For Zoobilee, we all know that at Zoobilee you have a special event alcohol license, and they make big bucks at that event. So our initial thought was maybe we should be rezoning these parks 'GC' and then we reacted with the idea that 'no, we don't really think parks and 'GC' are very compatible. We looked at what the City has done. The City has taken an approach of keeping parks as single-family but having specific regulations on the books for the City on how you treat each of the different parks.

So what we did was we imbedded within the definition of Parks and Recreation, some changes that would allow more latitude for public parks to provide a variety of uses. As part of that, we discovered that cultural groups as a use has just become an orphan. What used to be cultural groups, Zoos, Arboretums, could either be a park or they could be community assembly, so we are suggesting that since we have plenty of uses anyway and cultural groups now appear to be an orphan, let's eliminate them.

A minor change was, we have had some requests from telecommunication carriers that are associated with office facilities not wanting to go through the utility major Conditional Use process, so we have incorporated some language for that. A kind of a clean-up item, No. 3 is that we have a lot of things to do with vehicles scattered through out the Zoning Code definitions as well as through out the Zoning Code. It is kind of hard to follow the trail through on where do you find everything to do with vehicles, so we tried to consolidate everything that had to do with vehicles under the definition of vehicle comma. I will say in passing that there are a lot of changes that are imbedded in the Zoning Code that are similar to that.

One of them would be car washes. Car washes are a Conditional Use when they are in certain proximity to residential areas. We all know and understand that to be so with car washes as a principal use. It says point blank under the definition of convenience stores that car washes can be considered as an accessory use to a convenience store also. We talked about this issue and have clarified that any time you have a car wash, whether it is the principal use, the car wash Conditional Uses you see all of the time here at MAPC, or whether it is an accessory use to a service station or to a convenience store, think about some places like Coastal, which are running a convenience store, and they also have a car wash that is well patronized. It should be the same requirements that apply to it as far as Conditional Use if they are in close proximity to residential. The reasons you have it for residential use is to avoid the noise and the lights and what-not that are associated with a car wash. So that has been clarified. I didn't include that in this.

Adjoining, adjacent and abutting is another kind of clarification thing. I went through an elaborate process; they will tell you I am nitpicky. Adjacent doesn't necessarily mean contiguous. Adjoining means contiguous as similar objects—abutting like a street abuts a lot, because they aren't the same type of object. So I have tried to consistently use Spellcheck, you know the word search through the computer, to line out the inconsistencies we had between adjacent, abutting and adjoining and to use them in the context for which they were intended to be within the Zoning Code.

Item No. 4, reorder the intensity of commercial and industrial categories. This suggested change is that 'OW' Office Warehouse allows a lot fewer uses than does 'GC' General Commercial, and yet, so far, we have interpreted that 'GC' is a less intense district than 'OW'. We thought it looked like—and we talked about this with Advance Plans—it looks like 'OW' is less intensive than 'GC' when you look at the permitted uses. It is kind of hard to compare because 'OW' has a very limited range of uses as does 'IP'. They are not intended to include all sorts of the miscellaneous categories like General Retail. Anyway, we are suggesting that 'OW' be considered between 'LC' and 'GC' in the hierarchy of use intensity, and the 'IP' Industrial Park be placed between 'GC' General Commercial and 'CBD'. There was a minor change on outdoor work and storage areas to clarify that you weren't supposed to do your outdoor work and storage in the front setback of the 'IP' district.

Item No. 6 has to do with 'LC', with our Conditional Use car lots. I took typical requirements that have been passed by MAPC at the last so many car lot cases and incorporated most of those as conditions for Conditional Uses. I will say that one thing I didn't add is some of the language that it was already in existence on and this runs through the Code. It makes me think that we could still do some better tightening up. This is an example: It says 'a Conditional Use shall comply with the requirements of the noise standards of Section IV.C'. Well, that is prima-facie. They already are supposed to comply with it because if it is one of the requirements, it could comply with it, it is redundant. The reason I didn't go ahead and yank it out in all of those cases is because it is redundant, perhaps it does serve as a second point of notice to people when they are looking through the regulations. Oh, by the way, don't forget you have noise standards to comply with, oh, by the way, don't forget you have lighting standards to comply with. But the truth of the matter is, that stands independent whether you have those in or out on the Conditional Uses.

No. 7 is a suggested change, and it is something that we really are still talking about. It is in its formative stages. It is something we talked about at the most recent last two or three MAPC Advance Plans Committee meetings, and that is that in 'GC' car lots, actually, this came out of the retreat meeting we had last fall when we were talking about what is wrong with car lots. Well, maybe what is wrong with car lots is the way they look to the neighbors if the nearby neighbors are residential. So, I have some suggestions. I would say that this is something that is even new for the Advance Plans members and they haven't had a chance to respond to these yet. I would consider that this is definitely in draft form. It is an idea of supplemental regulations for 'GC' car lots that says that if 'GC' is near residential, then they have to be screened from the residential. Some very basics like that, and I would just ask you to refer to that section because it is new, it isn't in your January 29th draft.

This is not written as a Conditional Use. This is written as a supplemental regulation. I know that you all know the difference between the two. A supplemental regulation is something you have to do to get your building permit. A Conditional Use is when you might get to do that use, or you might not, but first you have to bring it to MAPC for a public hearing to determine if it is appropriate to do that Conditional Use. We are not suggesting that the 'GC' be a Conditional Use rather we are suggesting that it be supplemental regulations as part of the permit process."

GAROFALO "Donna, would you address the 'GC' car lots? We had some discussion about the height or the elevating. Those who are not on the Advance Committee might want to hear about that. "

GOLTRY "Yes. That is a good point. Here is an issue where the verdict is out. What is the height of platforms that should be allowed in 'LC' and 'GC' car lots? It is something to kick around. I took the condition out of a number of existing car lot cases where you included the regulation 'there shall be no elevated platforms' and included that in the drafts that circulated in Advance Plans. We talked about that; we talked about the possibility of 2 feet; we talked about the fact that in 'GC' car lots, they are allowed to do whatever, but the bottom line is that when you elevate a car, it constitutes signage. That is what they are basically trying to accomplish with it is to use it for signage. So I think that is an issue that we probably do need to have some discussion about. That is a good one."

GAROFALO "But in the 'LC', you kept that in there, right?"

GOLTRY "I kept it in in this proposal."

GAROFALO "So it is not in the 'GC'?"

GOLTRY "Right. So that is something that we need to talk about. Do we want it in both, do we want it consistent, do we want it to be in different amounts in each one? It gets kind of into a Sign Code issue. I didn't put it in the 'GC' one because I didn't feel like since I hadn't had a chance to talk with the Advance Plans Committee about it—it was one of our late breaking issues, that we weren't 'put to bed' on that issue."

Okay, I have combined the commercial and industrial accessory uses into one category, that is more of a clean-up thing. I don't think we need to belabor that. Also, a clarification on antennas and towers. I will refer to Ron Marnell to make sure that I got that right. We have had some problems with public franchise and antennas and saying that they needed to come in and get a Conditional Use to stick up the public franchise antennas. And I will refer to Joe Lang with the City, too, to make sure that I don't have that one in a form that needs a little changing.

We did some work on the screening provisions to clarify that screening is required in two situations in both the City and the County. Screening is required if you have a non-residential use adjacent to a residential use on an interior side or a rear yard. Screening is also required if you have some of these uses—these outdoor work and storage areas from ground level view, trash receptacles, etc. Those types of things. If they are within ground-level view, then they are supposed to be screened from the public street. That is a suggestion. Advance Plans can tell you that I can't seem to get that section right at all. I have a lot of trouble with it because the City and the County do things so differently on landscaping. That is wherein the root of the difference is, to try to make them alike.

I already talked to you about Point 11, reorganizing Section B of that screening mechanical outdoor work and storage areas to make it a little clearer, I hope.

Late breaking developments. In the last week, we have had an issue come up on day reporting centers and juvenile centers. In fact, there is a meeting this afternoon, I think, on this very issue. I have nothing included in terms of language on either of those items, but it is a possibility that we may need to consider them between now and the 8th. I know we have meetings coming up in the next week or two. You have probably read in the media that there has been some controversy over day reporting centers. They have been making the front pages. I know that Mr. McKay and I talked about the need to allow for that possibility, so we structured the public announcement that went into the newspaper to facilitate that if it does come to pass, that we have some suggested language ready in time for the public hearing.

I know I have omitted many, many, many things because there is just a lot in here, but I know that you are sick of hearing from me already because I have almost taken my full hour and I wasn't supposed to. So, I am going to open it up for questions you might have had, or comments you might have had from looking through your draft from the 29th?"

MICHAELIS "Okay, are there any questions for Ms. Goltry?"

HENTZEN "Donna, I studied this under the draft version that we had, so the page numbers might not fit."

GOLTRY "They won't fit. That is part of the nightmare."

HENTZEN "Yes. On Page 24 when we talk about an ornamental tower, meaning 'executive, non-structural, non-habitable building feature with a combined height no greater than twice the height of the building as measured from the average finished grade along the perimeter of the building'. What about church towers?"

GOLTRY "Church towers are under exceptions. I can't tell you the page in the one you are looking at, but it will be about the last page in Section III under height. 'Exemptions from height standards'. I think it would probably be about on Page 161."

HENTZEN "Okay, but all I am asking is, you had provided because most of these towers on these new churches, at least the larger churches are more than this paragraph allows."

GOLTRY "Yes, exemptions from the height standards following features are exempt, and it lists chimney smokestacks, etc., and then gets over to belfry spires and church steeples. These are other types of ornamental towers. Probably this will be getting into more of the issue related to the one—we had a proposal from the Warren Theatre folks—they were wanting a tower out on the Gateway CUP at 13th Street and K-96 recently, and it was one that didn't fit into the church tower, since it was for adult entertainment."

HENTZEN "I have another question. It refers, on my Page 30 and talks about adult bookstores, arcades and different things like that. What about the Hyatt Regency downtown?"

GOLTRY "Karen, you are on for this one. An adult motel, are you saying?"

HENTZEN "I assume that they have access to these 'X' rated movies there."

GOLTRY "But you are asking the question about the part that is within the 'sexually oriented businesses in the County', so that only applies to businesses in the County. It does not apply to businesses within the City—all of these definitions."

HENTZEN "Okay."

KAREN DURANLEAU, Sedgwick County Counselor's Office. "It would also need to be a motel or hotel that is characterized by the depiction of the specified anatomical areas. So if it is merely a hotel that offers 'X' rated movies, but other than that, they are not directed toward depiction of the specified anatomical areas. Other than that, it would fall within the adult motel or hotel definition."

GOLTRY "And that would be for the County and the City situation."

JOE ALLEN LANG, City Attorney's Office "Mr. Hentzen, in the City, adult businesses are covered through our Licensing Code, not within the Zoning Code, but there is a definite definition of an adult hotel/motel for the City like for County uses as well. You have to be licensed especially as an adult hotel/motel. Most of the hotel/motels don't need that license."

MICHAELIS "Are there any further questions? If there are no further questions, we have a comment from Mr. Marnell."

MARNELL "I would just like to suggest for those who aren't on the Advance Plans Committee, that there are a lot of changes in there that are just minor language changes and it will drive you nuts if you try to go through and read that and figure out what all of those are. They are back and forth between definitions, but the summary that Donna put together, if everybody goes through and looks at those pages, it will really facilitate our discussion in a couple of weeks."

MICHAELIS "Thank you. Thank you, Ms. Goltry."

2. Consideration of Subdivision Committee recommendations

MICHAELIS "Are there any items that need to be pulled by any Commissioners or by staff and treated individually?"

DALE MILLER, Planning staff "Item 2/1, SUB2000-107 Final Plat of Barefoot Bay Estates Addition is being deferred. Apparently there is a lawsuit pending on this. The applicant is here and can verify that they are asking for a deferral. And on the zone change that is coming up later on, they are asking for a deferral on it as well."

MOTION: That Item 2/1 be deferred.

MCKAY moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

Subdivision Committee items 2/2,2/3, 2/4, 2/5, 2/6, 2/7 and 2/8 were approved, subject to the Subdivision Committee recommendations.

MARNELL moved, **MCKAY** seconded the motion, and it carried unanimously (11-0).

2/2. SUB2000-122 – One-Step Final Plat of REPLAT OF PART OF SPENCER GARDENS ADDITION, generally located south of Pawnee, west of Webb Road.

- A. City Engineering needs to comment on the need for any guarantees or easements. A petition for the extension of sanitary sewer and municipal water services is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the

Planning department for recording.

- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. A minimum pad needs to be denoted for Lot 8.
- D. City Engineering requires a temporary easement to cover the stormwater sewer line located on Lot 1 in addition to a guarantee for relocation.
- E. The plat conforms with the CUP approval which permitted five access openings on Pawnee. Along George Washington Boulevard, the plat indicates two openings in accordance with the CUP; however the plat shall denote that the northern opening is limited to right-turns only. Distances should be shown for all segments of access control.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. A cross-lot circulation agreement should be provided to assure access between the lots.
- J. The access easements between Lots 1 and 2 and between Lots 3 and 4 shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. In accordance with the CUP, the following street improvements are required: a) The Applicant shall guarantee one-half the cost of adding a continuous center left-turn lane on Pawnee from George Washington Boulevard to the existing five-lane section west of Oliver, b) The Applicant shall provide a continuous accel/decel lane along the south side of Pawnee.
- M. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-93, Amendment #1) and its special conditions for development on this property.
- N. The following lot dimensions are needed: a) west line of Lot 8, b) southwest corner of Lot 8, c) east and south lines of Lot 7, and d) east line of Lot 5.
- O. Lot 8 exceeds the maximum lot width to lot depth ratio of 3 to 1. A modification will need to be approved.
- P. County Surveying advises that the basis of bearings needs to be shown.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's

responsibility to contact all appropriate agencies to determine any such requirements.

- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional utility easements.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the

- 2/3. SUB2000-124** – Final Plat of BEST SUPPLY ADDITION, generally located east of Broadway, on the north side of 21st Street North.
- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees are required.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
 - C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved subject to the applicant submitting a petition for future extension of stormwater sewer.
 - D. Traffic Engineering has approved access control except for one opening.
 - E. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
 - F. The contingent street dedication shall be referenced in the plat's text.
 - G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
 - J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
 - K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
 - L. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
 - M. Perimeter closure computations shall be submitted with the final plat tracing.
 - N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
 - O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.

- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/4. SUB2000-86 – Final Plat of MEADOW LAND ADDITION, located on the north side of Kellogg from 127th Street East to 143rd Street East.

- A. City Engineering needs to comment on the need for any guarantees or easements. A petition shall be provided for the extension of City water and sanitary sewer.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved subject to the Applicant submitting revisions. A drainage guarantee is required. A drainage easement is also needed. A letter shall be provided from the Kansas Turnpike Commission indicating their willingness to accept the drainage directed toward the Turnpike.
- D. In conformance with the CUP, the plat proposes one opening along Greenwich and two openings along Kellogg Drive. Distances should be shown for all segments of access control.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. A cross-lot circulation agreement is required to assure internal vehicular movement between the lots.
- G. The wall easements need to be referenced in the plat's text.
- H. City Fire Department needs to comment on the need for turnarounds within Reserve A and Reserve B. Turnarounds will not be required as the Applicant shall submit a site circulation plan indicating an internal loop system.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-196 Amendment #1) and its special conditions for development on this property.
- L. Traffic improvements along Greenwich Road and Kellogg Drive are needed as required in the associated CUP.
- M. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility

to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements. A temporary easement will need to be established by separate instrument for any facilities in need of relocation, along with the dedication of a permanent easement.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/5. SUB2001-10 – One-step Final Plat of ONE KELLOGG PLACE SECOND ADDITION, located on the southeast corner of Greenwich Road and Kellogg.

- A. City Engineering needs to comment on the need for any guarantees or easements. A petition shall be provided for the extension of City water and sanitary sewer.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved subject to the Applicant submitting revisions. A drainage guarantee is required. A drainage easement is also needed. A letter shall be provided from the Kansas Turnpike Commission indicating their willingness to accept the drainage directed toward the Turnpike.
- D. In conformance with the CUP, the plat proposes one opening along Greenwich and two openings along Kellogg Drive. Distances should be shown for all segments of access control.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. A cross-lot circulation agreement is required to assure internal vehicular movement between the lots.
- G. The wall easements need to be referenced in the plat's text.
- H. City Fire Department needs to comment on the need for turnarounds within Reserve A and Reserve B. Turnarounds will not be required as the Applicant shall submit a site circulation plan indicating an internal loop system.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-196 Amendment #1) and its special conditions for development on this property.
- L. Traffic improvements along Greenwich Road and Kellogg Drive are needed as required in the associated CUP.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of

stormwater.

- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements. A temporary easement will need to be established by separate instrument for any facilities in need of relocation, along with the dedication of a permanent easement.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/6. DED2001-02 – Dedication of street right-of-way from Gilbert L. and Joanna I. Adams, for property located north of 53rd Street North, west of Seneca.

LEGAL DESCRIPTION: The east 15 feet and the west 30 feet of the south 103 feet of the north 206 feet of Lot 131, Vanview Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-114, and being dedicated for street right-of-way along Delaware and Legion.

Planning Staff recommends that the Dedication be accepted.

2/7. DED2001-03 – Dedication of a utility easement from Gilbert L. and Joanna I. Adams, for property located north of 53rd Street North, west of Seneca.

LEGAL DESCRIPTION: The west 10 feet of the east 25 feet of the south 103 feet of the north 206 feet of Lot 131; AND, the east 10 feet of the west 40 feet of the south 103 feet of the north 206 feet of Lot 131, Vanview Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-114, and being dedicated for the construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

2/8. DED2001-04 – Dedication of access control from Huong and Trang Le, for property located on the east side of Hillside, north of 31st Street South.

LEGAL DESCRIPTION: The west line of Lot 1, Block C, except the south 150 feet thereof, Plainview Subdivision No. 2, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: Access control, except for one opening, along Hillside Avenue.

This Dedication is a requirement of Lot Split No. SUB 2000-116, and being dedicated for access control along Hillside Avenue.

Planning Staff recommends that the Dedication be accepted.

JERRY MICHAELIS, Vice-Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

MICHAELIS "Before we begin, is there anyone here who wishes to speak on Items 3/1 through 3/4?"

KROUT "These are not zoning hearings, these are requests to vacate utility easements and access control. Is there any information you need to provide, Bill, to the Planning Commission other than what they already have?"

BILL LONGNECKER, Planning staff "There have been no changes since the Subdivision Committee met and made recommendation with the conditions that are presented on your case sheets."

MICHAELIS "All right. Once again, is there anyone here that wishes to speak, either in favor or in opposition to Items 3/1, 3/2, 3/3 or 3/4? Okay, seeing none, I would entertain a motion to approve."

MOTION: That the vacation items be approved.

MARNELL moved, **GAROFALO** seconded the motion, and it carried unanimously (11-0).

3/1. VAC2001-00002 - Wilson Residential Co., LLC and Kris & Diane Lewonowski request to vacate utility easement.

LEGAL DESCRIPTION:	All of the 10.00 foot Utility Easement, between Lots 3 and 4, Block 1, WILSON FARMS ADDITION, an addition to Wichita, Sedgwick County, Kansas; EXCEPT the West 20.00 feet of said 10.00 foot Utility Easement
LOCATION:	South of 21 st Street between Rock Road and Webb Road
REASON FOR REQUEST:	To build a residence
CURRENT ZONING:	Easement surrounded (Lots 3 & 4) by "SF-6" Single-Family Residential. Properties to the north, south, east, and west are zoned SF-6 Single-Family Residential.

The applicants are requesting to vacate a utility easement that is interior to property owned by the applicants. The applicants wish to construct a residence that will straddle Lots 3 & 4, Block 1, Wilson Farms Addition.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 2, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the utility easement described in the petition should be approved subject to the following conditions.
1. Any lot created by a lot split must abide by all set backs & easements, must have a minimum lot size of 6,000 sq. ft., and have access to utilities.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Any lot created by a lot split must abide by all set backs & easements, must have a minimum lot size of 6,000 sq. ft., and have access to utilities.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

3/2. VAC2001-00003 - World Impact, Inc.

LEGAL DESCRIPTION: The South 1.00 foot of the West 5.00 of the platted 10.00 foot Utility Easement, located in the North 76.00 feet of Lot 2, Block 1, WORLD IMPACT ADDITION, an addition to Wichita, Sedgwick County, Kansas

LOCATION: South side of 13th Street and east of Hillside

REASON FOR REQUEST: To allow encroachment over the utility easement by an (just built) existing building

CURRENT ZONING: "B" Multi-Family

The applicant has built a building that encroaches on an existing 10-ft. utility easement. The encroachment is on the south 1-ft. and west 5-ft of the platted 10-ft. utility easement.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 2, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a utility easement described in the petition should be approved subject to the

following conditions.

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. Possible power pole attachments, noted on the SW Bell records must be verified by applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. Possible power pole attachments, noted on the SW Bell records must be verified by applicant.

3/3. VAC2001-00005 - Request to vacate access control.

OWNER/APPLICANT: Solomon Investments LLC

AGENT: Kim Edgington/Austin Miller

LEGAL DESCRIPTION: Lot 1, Block 1, Hoskinson 2nd Add

LOCATION: S 358.62-ft., Lot 1, Block 1, Hoskinson 2nd Add., generally located on the west side of Ridge Road and south of N 37th Street.

REASON FOR REQUEST: Request to vacate access control along the west-side of Ridge Road.

CURRENT ZONING: Subject property is zoned NR Neighborhood Retail restricted to GO General Office use (with conditions), the property is vacant. Property to the north, Lot 2, is zoned LC Limited Commercial subject to conditions. Properties to the south and west are zoned B Multi-family (Catamaran Cove). Property to the east (across Ridge Road) GO General Office (Medical Office).

Applicant proposes to do a Lot Split, contingent upon the recommendation of the Planning Commission and approval by City Council of the proposed vacation of access control, of Lot 1, Block 1, Hoskinson Add. The Lot Split would create one new Lot for this Addition; Lot 10. There are currently 9 lots in this addition. The applicant proposes to revise access control on the southern 30-ft of the Lot 10, as shown on the exhibit. The applicant must develop Lot 10 per standards as stated in Ridge Center Community Unit Plan (DP 242).

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 2, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described utility easement and access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the access control should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. The applicant shall move the proposed access control 250-ft north of the southern end of Lot 10 (the Lot to be created by Lot Split of Lot 1, Block 1, Hoskinson 2nd Addition, contingent upon recommendation by the MAPC and approval by the City Council).
 3. The applicant shall get cross lot access agreement with adjacent lots.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. The applicant shall move the proposed access control 250-ft north of the southern end of Lot 10 (the Lot to be created by Lot Split of Lot 1, Block 1, Hoskinson 2nd Addition, contingent upon recommendation by the MAPC and approval by the City Council).

3/4. VAC2001-00006 - Request to vacate a sewer easement and a portion of complete access control.

OWNER/APPLICANT: Kelly & Coleman, Inc., c/o Stephen R. Kelley

AGENT: Baughman Company, P.A. c/o Phil Meyer

LEGAL DESCRIPTION: Access Control Vacation; Commencing at the SE corner of Lot 1, Block A, DePaul Addition to Wichita, Sedgwick County, Kansas; thence N00 degrees 00'00" E along the east line of said Lot 1, 250.00 feet to a deflection corner in said east line; thence N89 degrees 36'30" E along the east line of said Lot 1, 70.00 feet to a deflection corner in said east line and for a point of beginning; thence N00 degrees 00'00" E along the east line of said Lot 1, 72.40 feet to a deflection corner in said east line, and there ending.

Easement Vacation; The 20 foot sewer easement granted to the de Paul Addition to Wichita, Sedgwick County, Kansas that begins along the easterly line of Lot 1, Block A, in said de Paul Addition

LOCATION: Generally located on the southwest corner of Kessler and Central

REASON FOR REQUEST: For future development of this site.

CURRENT ZONING: Subject property is zoned NR Neighborhood Retail. Properties to the north and east are zoned SF-6 Single Family Residential. Property to the south is zoned GO General Office and property to the west is zoned LC Limited Commercial.

The applicant is requesting to vacate a 20' Sewer Easement and a portion of Complete Access Control in Lot 1 to adjust driveway access on this site. The applicant proposes Access Control further away from the Central - Kessler Intersection.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 2, 2001, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of access control described in the petition should be approved subject to the following conditions.
 1. The applicant shall line up the proposed drive, onto Kessler, with the existing drive of the residence (zoned SF-6) across from it to ensure that headlights from the applicant's development not shine into the front window(s) of the residence.
 2. The applicant shall submit a guarantee of the abandonment of the sewer line within the 20-foot sewer easement the applicant request vacation.
 3. A temporary easement shall be dedicated by separate instrument until relocation of the sanitary sewer line is complete.
 4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall line up the proposed drive, onto Kessler, with the existing drive of the residence (zoned SF-6) across from it to ensure that headlights from the applicant's development not shine into the front window(s) of the residence.
2. The applicant shall submit a guarantee of the abandonment of the sewer line within the 20-foot sewer easement the applicant request vacation.
3. A temporary easement shall be dedicated by separate instrument until relocation of the sanitary sewer line is complete.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

ZONING:

4a. **CON2001-00008** - James and Sharon Hagan (Owner/Co-Applicant) Guthrie Wilkens Trailer Company, Kent or Nancy L. Wilkens (Contract Purchaser/Co-Applicant) request Conditional Use to permit a solid waste Transfer station; and

4b. **ZON2001-00010** – James and Sharon Hagan (Owner/Co-Applicant) Guthrie Wilkens Trailer Company, Kent or Nancy L. Wilkens (Contract Purchaser/Co-Applicant) request zone change from "LC" Limited Commercial and "SF-20" Single-family residential to "LI" Limited Industrial on property described as:

The South Half of the Southwest Quarter, except the East 1,054 feet, Section 23, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located on the northeast corner of 55th Street South and Hoover.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant has an "option to purchase" agreement for 48 acres located at the northeast corner of 55th Street South and Hoover Road. The applicant is seeking a Conditional Use and "LI" Limited Industrial zoning with the intention of developing a municipal solid waste transfer station at this location. The application area is currently zoned "LC" Limited Commercial and "SF-20" Single-family Residential and is used for crop production. The site has a mature hedgerow on all sides except for the west property line. Railroad tracks cross the northwest corner of the property. FEMA maps indicate the application area is not part of a designated floodplain. The application area is located 3.5 miles south of K-42 and 1.5 miles west of the 55th Street South bridge crossing of the Wichita-Valley Center Floodway. The 55th Street crossing is one of two east-west "section line road" "Big Ditch" crossings in southwest Sedgwick County.

As depicted on the applicant's site plan, all buildings and transfer activities are to be located in the center of the 48-acre application area. A four-bay 80-foot by 100-foot transfer station would be located 554 feet south of the north property line and 907 feet west of east property line. Other activities noted on the site plan include: trailer storage, roll-off box storage, cardboard bailing, re-syllable material drop off, office, scales, scale house and drive ways. This transfer station and associated facilities would be fenced at the property line and have gated access from 55th Street South. An 8-foot high landscaped berm is proposed to be located along the west property line, south of the railroad tracks. The site plan indicates approximately 100 trees would be planted along the berm.

The applicant has stated that he intends to develop a facility that could process 500 to 600 tons of waste per day. Initial regular hours of operations would be 6 A.M. to 5:00 P.M. but they are seeking permission to operate 24 hours per day six days a week (Monday-Saturday). The applicant has a commitment to accept 330-400 tons per day from a local waste collection firm. (The Waste Connection transfer station is a 1500 tons per day facility.) No medical or hazardous waste will be accepted at this site. Waste delivered to the facility would be hauled to Topeka for final disposal. The scale house would be built large enough to provide meeting space for 40 people. Leachate collected from the tipping floor would be collected in a tank and removed in an appropriate manner. Water is to be trucked in and placed in storage tanks for domestic and wash down use. At this point in time, they do not intend to drill a well on-site. The applicant's also proposes a lagoon to handle on-site waste treatment.

Traffic generation rates for the facility are estimated to be 50 residential and commercial truck trips hauling waste into the facility, and approximately 15 semi-trailer loads hauling waste out of the facility on a daily basis. Thus minimum projected additional average daily trips generated by this use are estimated to be 130.

Land uses and zoning for the property surrounding the application area is mixed. To the west, land is zoned "LI" Limited Industrial and developed with a Township maintenance building and a power generation plant pond. Further west is a

power generation plant. To the southwest the property is zoned "LC" Limited Commercial and is undeveloped. Further southwest is an industrial park zoned "LI" Limited Industrial and a grain elevator zoned "GI" General Industrial. To the south is farm ground zoned "LC" Limited Commercial and "SF-20" Single-family Residential. There is a single-family home located approximately a ¼ mile to the south, along Hoover. Land to the east is zoned "SF-20" Single-family Residential and is pastureland. There are several single-family residences located further east, approximately 660 feet, along 55th Street. Property to the north is zoned "SF-20" Single-family Residential. This property is developed with a residence and a kennel. Because of the industrial uses already existing west of Hoover, Hoover carries a significant volume of truck traffic, especially during harvest time. An elementary school is located 1.5 miles north of the application on Hoover. Campus High is located 1.75 miles east of the application area.

The County's Solid Waste Management Committee has reviewed this request and has recommended approval. There were approximately 30 to 40 citizens at the meeting asking questions regarding: hours of operation, impact on drainage, impact on property values, concerns over traffic, what other sites had been considered, will roadside dumping increase, a requirement to pick up fugitive debris, hours of operation, noise and odor, etc.

According to state regulations, no trash is allowed to remain at the transfer station in excess of 48 hours. Material put in the roll off boxes – material that is inappropriate to go through the transfer station such as tires, yard waste, white goods – is permitted to be on-site a maximum of seven days.

The Conditional Use application has been evaluated against the applicable regulations contained in the County's resolution regarding Municipal Solid Waste Transfer Stations. Those regulations address: minimum site acreage; distance to roads, property lines, and buildings on other property; landscaping; activities conducted in an enclosed building; one common entrance; room for educational activities; temporary storage for banned wastes; and adequate parking. The County's regulations, along with other applicable local and state requirements, address the complete range of operational issues for transfer stations.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Single-family Residential; large-lot residence, kennel, agriculture
SOUTH: "LC" Limited Commercial and "SF-20" Single-family Residential; agriculture
EAST: "SF-20" Single-family Residential; agriculture
WEST: "LI" Limited Industrial; Waco Township building; power generation station pond

PUBLIC SERVICES: Both 55th Street and Hoover Road are paved two-lane county highways. Current traffic volumes on these roads are 3200 average daily traffic (ADT) on Hoover and 2400 ADT on 55th Street. Hoover Road provides a primary connection to K-42 to the north while 55th Street provides a key southern crossing to the "Big Ditch." No municipal sewer or water services are available. At the time of platting, it is likely that the following improvements will need to be guaranteed: southbound left turn on Hoover at the intersection of 55th Street; improved corner radii at the 55th Street and Hoover intersection; an east bound left-turn lane on 55th Street at the entrance and a right-turn decel lane at the entrance on 55th Street. Currently, these two county highways are built to county highway standards.

CONFORMANCE TO PLANS/POLICIES: The Wichita/Sedgwick County Development Guide identifies this area as appropriate for "rural" uses. The rural designation includes land outside the 30 year Wichita urban service boundary and the small city growth areas. This category is intended to accommodate normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Unified Zoning Code in 1996 established solid waste transfer stations as uses conditionally permitted in both the Rural Residential and the two industrial zoning districts. The implication is that at least some locations that have a rural as well as industrial character should be suitable for these operations.

Sedgwick County's official Solid Waste Plan identifies transfer stations as the appropriate method of waste disposal, and includes a section on "site selection." The plan recommends that transfer stations be approximately 15 acres in size; appropriately zoned; adjacent to a major highway to minimize the impact of truck traffic on neighborhood roadways; away from or shielded from residential areas; and centrally located to increase efficiency for haulers.

Finally, the Comprehensive Plan suggests that industrial development may be appropriate in rural areas if an expansion of an existing industrial area, and should be located where there is good access and away from existing or planned residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that "LI" Limited Industrial zoning be APPROVED for only the area enclosed by the fence and driveway (as indicated on the site plan), subject to platting within 1 year and the following conditions.

- A. Prior to the beginning of operation of a solid waste transfer station, all applicable local, state and federal permits shall be acquired.
- B. This Conditional Use for the establishment of a solid waste transfer station shall be subject to all applicable local, state, and federal regulations and laws.
- C. The use of the site as a solid waste transfer station shall proceed and be maintained in general conformance with the approved site plan and made a part of this permit. The tipping floor area shall be completely enclosed except

- for openings with operable doors.
- D. At the time of platting, the applicant shall guarantee the following improvements:
 - E. At the time of platting, the applicant shall submit a drainage plan for approval by Sedgwick County Department of Public Works, Department of Environmental Resources and the Health Department. All runoff within the tipping facility shall drain to a holding facility and not to the storm water system. All outside runoff shall be properly confined, filtered and or treated to prevent contamination, as deemed appropriate by the appropriate County departments.
 - F. A landscape plan shall be submitted to the Planning Director for approval prior to issuance of a building permit, indicating the number, location, size and type of plants and method of watering. Landscaping shall be installed in conformance with this plan prior to operation of the facility and maintained in conformance with the plan.
 - G. Temporary outside waste storage, not otherwise enclosed in a transfer trailer shall be confined to the "roll-off box" area depicted on the site plan, and paper and plastic goods shall be stored in receptacles that have lids which can be closed to prevent waste from being blown beyond the site.
 - H. Outside building walls and roof surfaces shall be predominantly muted in color intensity, with bright white or colors limited to a maximum of 10 percent of the total surface area.
 - I. No off-site signs are permitted on the property. Building signs are limited to a maximum of 10 percent of any wall surface.
 - J. If a well is drilled on this site, the applicant shall submit water samples for water quality analysis by the City-County Health Department, and the applicant shall underwrite the cost of said analysis.
 - K. Violation of any of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area is a mix of "LI" Limited Industrial, "GI" General Industrial, "LC" Limited Commercial and "SF-20" Single-family Residential. Uses range from agricultural, single-family residences, maintenance buildings, industrial park and power generation pond. The area to the west is primarily industrial with residential uses located to the east of Hoover. Heavy truck traffic exists today in the area due to existing industrial development.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-20" and could be developed for permitted uses. However, proximity of this site to industrial zoning and existing industrial uses makes it less desirable for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Anticipated detrimental impacts will be mitigated by the setbacks, landscape buffers, minimum lot size requirements and other development and operational requirements. Projected traffic volume will increase, but projected increases can be addressed by required improvements.
4. Conformance of the requested change to the adopted or recognized plans and policies: The Comprehensive Plan identifies this area as appropriate for rural uses. The treatment of this use in the Zoning Code suggests it would be appropriate in some rural as well as industrial settings. The County's Solid Waste Management Plan relies upon the use of transfer stations to facilitate the removal of municipal solid waste. The County's Solid Waste Committee reviewed this application and found it to be consistent with the County's regulations for transfer stations.
5. Impact of the proposed development on community facilities: The site will generate additional traffic, but the applicant will be required to fund road improvements which should address potential traffic impacts. No municipal water or sewer services are available, and these services should not be impacted by this development.
6. Relative gain to the public health, safety and welfare: With the imminent closing of Brooks Landfill, it makes the establishment of a new means of waste disposal imperative; Sedgwick County's plan for solid waste management mandates the utilization of transfer stations; there is only one other transfer station currently under construction with one other location approved for a transfer station. It is important for the community to have a choice of facilities in order to maintain a competitive balance between service providers. Since it also appears that the ultimate disposal locations are different for the two previously approved stations and this proposed station, approval of this request would provide additional security that there would likely always be a landfill to which the community's trash could be hauled. Finally, with a transfer station under construction in the north part of the county, a site in the southwest part of the county will provide increased convenience and reduce total vehicle miles traveled.

MILLER "This is a request for 'LI' Limited Industrial zoning as well as a request for a Conditional Use to permit a municipal solid waste transfer station. The application area is located on the northeast corner of Hoover and 55th Street South. The applicants have an 'option to purchase' agreement for 48 acres at this location. As you can see on the zoning map, it is zoned 'SF-20' and 'LC'. With their intention of developing the municipal solid waste transfer station, they need a Conditional Use for the transfer station, and 'LI' Limited Industrial zoning as the base zoning on which to locate the transfer station.

Three sides of the application area are covered by fairly mature hedgerows. The west side is not at this particular point in time. As indicated in the staff report, the applicants intend to build a berm along this side and they are going to plant

approximately 100 trees along that west property line as well to complete the berming. You can see that the railroad track runs across that northwest corner of the application area. There is a KG&E electrical generating plant in the area; there is a Waco Township maintenance meeting and office space there. The generating plant has a pond that is located somewhere in the area—it looks like it is part of their cooling operations that they have set up for a wildlife habitat.

There is a single property owner to the north, as far as I can tell off of the ownership list with structures and possibly a residence in approximately this location. There is another tract of land that is owned by Vulcan Chemicals, and then there are homes scattered to the east on larger lots. There is an agricultural tract to the south, a vacant piece of property that is currently farmed, as best as I can tell, off of that southwest corner; the DeBruce grain elevator and the Garvey Industrial park further to the southwest; and Vulcan Chemicals is located further southwest as well. If you go up this road a ways, there is the Oakville School and it connects up to K-42. If you go east, there is a bridge that crosses the Big Ditch and takes you on over about a mile and $\frac{3}{4}$ to Campus High School.

The applicants have submitted a site plan with the Conditional Use request and it is attached to your staff report. As you can see on that site plan, they propose access off of 55th Street. The compound, if you will, would be fenced in by a chain-link fence and all of the activities would occur in here. The scales, the scale house, the actual transfer facility, which, according to the plan is a four-bay facility. There would also be parking spaces for trailers and other trucks utilizing the facility. They would also have a parking area for the meeting room that they are required to have as an educational center. They are proposing, at this point, to be able to handle up to 600 tons per day. We are advised that they currently have a potential contract to accept between 300 and 400 tons from a local hauler that would begin hauling to this location, if it is approved, as soon as it is under operation. They are asking for permission to go on up to 600 tons per day. They indicate that their hours of operation, to begin with, would be in the 6:00 a.m. to 5:00 p.m. range, although they are asking for 24-hour operation approval.

They will not accept any medical waste or any hazardous waste at this location. Whatever the waste that is accepted here would then be hauled to Topeka for final disposal is what we are being told at this point. Leachate would be collected from the tipping floor and collected in a tank and then disposed of in an appropriate manner. They do not, at this point in time, plan on drilling a well on-site. They indicate that they will truck all of the water they need for domestic and wash-down purposes in and not drill a well. They will apply for a lagoon to handle their on-site solid waste requirements.

Based on the information that we have at this point in time, we are estimating that the minimum projected additional average daily traffic generated by trucks would be somewhere in the neighborhood of 130. Approximately 6 in and 6 out, based on the firm they have the contract with has 32 routes and some of those trucks make only 1 trip a day; some make 2. That would be the minimum number. Since we don't have an active transfer station in the county to have any real world experience in terms of the way things work here in Sedgwick County, we can't give you an upper range because in the traffic manuals, that listing is not in there in terms of traffic generation like you are used to getting. We generally tell you that their particular use has a projected national traffic average and this use just isn't in the manual.

Land use and zoning surrounding the property is somewhat mixed. There are residential uses to the east, there is vacant agricultural ground to the south and there is a house located approximately a quarter of a mile south of the agricultural area, and then to the southwest is the agricultural and industrial complex and then to the west is the KG&E generating plant. Then immediately north is the approximately 40 acres or so that has a residence on it and is probably the closest house to the transfer station. Based on the aerial, it looks like the homes to the east are approximately 660 feet to the east of this application area; a quarter mile to the south, as I indicated earlier and then this one that is right on the property line to the north. Campus High, as I indicated is about a mile and $\frac{3}{4}$ to the east and the elementary school is about a mile and a half north.

The County Solid Waste Management Committee has reviewed this request and recommended approval. There were approximately 30 to 40 citizens at that meeting and they had questions concerning hours of operation; impact on drainage; impact on property values of adjoining property owners; concerns over traffic; what other sites had the applicant considered and why did they chose this one; concerns about roadside dumping increasing if this is approved, as people would be hauling to this location and then decide to just jettison their load as opposed to paying for it to be disposed of at this location; and who would pick up any fugitive debris; hours of operation; noise. Those kinds of things were the general questions that came up.

The County has a resolution regarding municipal solid waste transfer stations and those regulations address minimum site size; distance to roads; distance from property lines; other buildings; landscaping requirements. Those sorts of things. Based on the committee's review of this, they are of the opinion that this application complies with all of those requirements. Susan Erlenwein is here from Sedgwick County if you have any particular questions about the committee meeting or those regulations.

Currently 55th Street South and Hoover are designated on the County's maps as two lane county highways. The current traffic volume on these roads, based on the latest data that we had available to us is 3200 average daily trips on Hoover and 2400 on 55th Street. There is not any municipal sewer or water service available to this site. As I indicated before, they would be asking for a lagoon. We do understand that approximately $\frac{1}{4}$ of a mile south, along Hoover that the City of Clearwater has an 8 inch water line that terminates in that approximate area. It is not clear at this point whether that service could be extended to this location and probably it is something that would be more appropriately discussed at the platting stage. We have discovered that at least there is public water in the general area.

We would anticipate that at the time of platting, we would ask for a southbound, left-turn lane on Hoover at the intersection of 55th. That they would also be looking for improved turn radii at that intersection. That an eastbound left-turn lane on 55th Street and a right turn decel lane on 55th Street be installed as a platting requirement.

With respect to conformance to plans and policies, the plan recommends this area as a rural area and as such rural areas are intended to accommodate normal agricultural uses, large lot residential subdivisions and similar type uses. The Unified Zoning Code in 1996 established solid waste transfer stations as Conditional Uses permitted in both the rural residential and the two heavier industrial districts. The implication of that is that at least some locations that are located in rural areas may be appropriate for these types of uses.

The Sedgwick County official Solid Waste Plan identifies transfer stations as the appropriate method of waste disposal, and includes a section on site selection requirements, as I have roughly gone over before. And finally, the Comprehensive Plan suggests that industrial development may be appropriate in rural areas if an extension of an existing industrial area, and if they are located with good access to highways and away from existing or planned residential development.

Lopez arrived at the meeting at 1:15 p.m.

Based on the information that we have at this point in time, we are recommending approval for both the Conditional Use and the 'LI' Limited Industrial zoning, subject to the conditions that are found on Page 5 of the staff report. The rationale for that finding begins on Page 6. I would also draw your attention to a number of pages that have been placed at your location that have been provided by interested citizens indicating the research they have done and whether they are in support or opposition of this particular request."

MCKAY "Before we get into discussion, I would just like to ask the staff from the County if they have anything to add to what Dale has said before we get into questions."

PLATT "Maybe we should comment. I receive this packet (indicating) at home last night."

MICHAELIS "I was just going to ask that question. Have there been any ex parte contacts? Basically, everybody received that packet. Was there any other information other than the packet received? Any phone calls or discussions? Okay. Are there any questions of Mr. Miller?"

PLATT "Just one question to clarify. The recommendation is that the 'LI' zoning be limited to the area enclosed by the fence. Are you also recommending that the Conditional Use be limited to that, too?"

MILLER "Yes, just this area (indicating) plus the access road, so that the remaining area would be left zoned as 'SF-20'."

WARREN "Approximately how many acres would be fenced as part of this?"

MILLER "I am not sure I can answer that. The applicant may know how much acreage is contained within the fenced area. I am being told that approximately 4 acres are inside the fenced area."

GAROFALO "I would like to hear a little bit more about this lagoon and what its use would be and if it would be involved with any of the watering down of the concrete floor, and whatever disposal of that water."

SUSAN ERLLENWEIN "I am with Sedgwick County Environmental Resources. Any water used in the facility that comes into contact with trash will be collected from the concrete floor into a special tank and then that tank will be taken offsite to a sewage treatment plant for disposal.

If there is a lagoon on site, that would be for bathroom uses, but not for the waste-water content."

MICHAELIS "Are there any further questions of Ms. Erlenwein? Okay. Do you have any further comments you would like to add while you are there?"

ERLENWEIN "I think I have made presentations in the past to this committee about the transfer stations and the County regulations. We do have landscaping regulations and we will be inspecting transfer stations on a weekly basis at random. We will show up and make sure they are complying with the regulations that are on the books. KDHE also has regulations that require transfer stations to be cleaned on a daily basis; how long the trash can be there. Our regulations are stricter than the state in many respects that it has to be an enclosed building, that we will be inspecting it more frequently than the state will be. We will keep on top of this and other transfer stations.

There is a transfer station under construction right now in the north part of the County. It will be about 3 times the size of this location. I will be happy to answer any questions also after citizen comments to help address any of their concerns."

GAROFALO "Has the County Commission decided on the number of transfer stations? Is there going to be a limit of 2,3,4 or 5?"

ERLENWEIN "No, what the County Commissioners decided was for private ownership of transfer stations, and what the market could bear. So I imagine that our market size, at the most, you will be seeing 3 transfer stations."

MICHAELIS "Are there any further questions?"

OSBORNE-HOWES "There are 2 approved now?"

ERLENWEIN "The County Commission has approved one at 37th Street North and West Street and one along K-15, south of Derby. The one up north has gone through the state permitting process. The one south has not gone through the state permitting process yet. So there are 2 already approved by the BOCC."

OSBORNE-HOWES "If we are talking about 3 and 2 are in the process, then this would be expected to be the last one. Did they talk about where the proper placement in this county should be for these transfer station based on need, direction of the trucks, etc.?"

ERLENWEIN "The County Commissioners initially in addendum to the Solid Waste Plan, which was published in October of 1997 had looked at site selection on a basis of if the county were to build a facility. They were looking at centrally located, near major highways and other criteria. They also had a section in that plan about RFP going out for proposals for companies to provide the service.

In the annual update to that plan, the Commissioners had decided instead of them building a facility to have it for the private sector to build a transfer station, so the criteria changed and they developed the resolution, which simply stated that access roads must be paved. One of the criteria also behind doing it that way is that that left it open for the private companies to build where they could find land and have a good location.

Other cities have also developed their own transfer station regulations. Park City has; Wichita has, and some businesses will locate their facilities based on county regulations and those city regulations and what suits their needs the best."

HENTZEN "How many tons of trash are dumped, say a day, on the average?"

ERLENWEIN "At Brooks Landfill, the average is just over 1400 tons per day."

HENTZEN "Yeah. And what is the capacity of the two places that have been approved?"

ERLENWEIN "The facility up north at 37th Street North and West Street is being built for 2,000 tons per day, and the one down in Derby was built for 500 tons per day.

Of course, any facility being built, they want to build for expansion. They know that they will have less than that, but as the community grows, they want to make sure they have built for maximum capacity in the future."

HENTZEN "When do you think you will reach the busting time or the limit if those were the only two places available?"

ERLENWEIN "The County is looking at waste minimization, such as recycling and pay-as-you-throw measures to actually decrease the amount of trash going into these facilities. So I think we are talking very long term, 30 to 40 year capacity."

HENTZEN "On just the two that are already approved?"

ERLENWEIN "If they were to have that amount go to those facilities, yes."

MICHAELIS "Are there any further questions of Ms. Erlenwein? Thank you, Ma'am."

GAROFALO "I have a question of the County Engineer if he is here."

JIM WEBER "I am the Deputy Director of Public Works for the County. We also have Mark Borst, who is our Traffic Engineer with us today, depending on which way your questions are going."

GAROFALO "My question is, does the County have any plans for improvements of 55th and Hoover? Any kind of improvements?"

WEBER "We are not showing any projects for 55th or Hoover in our 5-year C.I.P."

GAROFALO "Okay. That answers my question."

WARNER "Are these two roads constructed substantially to carry the increased traffic over a long period of time, or is this going to require a whole lot more maintenance or whatever on these two paved roads?"

WEBER "All of our roads are built to standard to withstand truck traffic. We are aware of other truck traffic in this neighborhood, and we don't see that there is going to be any problem from the additional trucks down here."

OSBORNE-HOWES "I don't know if this is the right time for this, but I would like to learn a little bit more about the routes these trucks would take to and from the facility."

MICHAELIS "Maybe the applicant could address that a little better."

OSBORNE-HOWES "I don't know if it should be the applicant. It should maybe be Traffic or someone like that should probably address it."

WEBER "I am not certain that I can address where the trucks are going to go. They are legal to go on all County roads."

OSBORNE-HOWES "Oh, I know, but initially, we were looking at them coming off of highways and such and placing these adjacent to highways so that they would not travel too far off of the main highways."

WEBER "I am not sure how to address your question. This is adjacent to two County standard arterial roads, in an area where we already have truck traffic."

MICHAELIS "Are there any additional questions for Mr. Weber?"

GAROFALO "I just have a comment, or a question of staff, I guess. If this were to be approved, could a condition be a requirement that the big trucks that are hauling this stuff off to wherever they are taking it, could we require them to take certain routes?"

MILLER "Well, I suppose that one could. I know that we have regulations about truck routes through the City, but I don't know if the County has had any experience with doing that in the County where they would limit where truck traffic could go."

What was indicated at the solid waste committee meeting was that if the anticipation is that most of this traffic is going to be coming from the City of Wichita, then one would assume that they would use Hoover and that they would use 55th Street. They also indicated that West Street could also be an access road leading into this site."

MICHAELIS "I would suggest that that would be a legal question that we may want to ask to see if we could even do that. I think that is something that the applicant could probably help us lead in that direction, too. Mark Borst says that he can maybe add some more to that."

MARK BORST "I am with the Sedgwick County Public Works. For us to start restricting traffic, I don't think we could reasonably restrict an individual generator. We would have to look at DeBruce because they have large grain trucks. We would have to look at Vulcan, they have large tankers. We would potentially have to look at any other heavy commercial users of those roads. We would almost have to designate those roads as parkways, which is the fancy term for a non-truck route. That would be extremely difficult if not impossible for us to legitimately claim at this point because of the other industry that is in the area and has been using those roads over the years."

MICHAELIS "Thank you, Mr. Borst. All right, are there any other questions for staff or any related County officials?"

LOPEZ "I have a clarification of Ms. Erlenwein. What is the capacity of the dump up north?"

ERLENWEIN "The landfill? Okay. I am just clarifying the term because the term 'dump' is an archaic term. There aren't any dumps any more. The sanitary landfill up on North West Street has reached its capacity that has set by KDHE. It must close the evening of October 9, 2001."

LOPEZ "What was the daily capacity, 1400 tons?"

ERLENWEIN "That is what is going in there right now, average. Mondays would be a high day of about 2,000 tons per day and weekends are low days."

LOPEZ "Okay. And then, if I heard you correctly, the transfer station is being built to accommodate 2,000 tons per day?"

ERLENWEIN "Two thousand tons on the north transfer station. The one down at Derby 500 tons. At this one, I believe they want 600."

LOPEZ "Okay. I just wondered if we are building for future growth. I guess we are."

ERLENWEIN "And remember you have private companies hauling in our community. Waste Connections, formerly BFI will build a transfer station up north. Their trucks will go to their transfer station, which has the majority of the trash in our community. You have Waste Management, which said that they would take it to the proposed transfer station at 55th and Hoover. You have many smaller haulers such as Ballinger or Leis Trash, who would choose which transfer station to take it to."

If Waste Connections builds their own transfer station, their own trucks will go to their transfer station. So because of the situation in our community with private collection, you can support multiple transfer stations."

LOPEZ "So what we are building right now is for excess capacity."

ERLENWEIN "That is true."

MICHAELIS "I would like to ask the Commissioners, when you are speaking, to bring their microphones closer to make sure that everyone can hear you. Okay, we will now hear from the applicant. If he would come forward, please. And for those of you that just got here, I will remind you of the procedure. We have heard from staff, we are going to hear from the applicant, you will be given a chance to speak and then the applicant will be given 2 minutes to speak in rebuttal. That is the procedure we will follow. Also, once again, I would like to emphasize that you need to keep control. Don't pre-judge and say we are all against you. If you keep control it will go orderly for everybody."

FLOYD COTTER "I am with Burns and McDonnell Engineering. I am a solid waste engineer. The outline that I think we passed around earlier we are going to go through. I think most of the information in there has been covered effectively by the previous speakers, so I won't go back through all of that again in order to keep this as concise as possible. I will try to hit some of the points where we can provide just a little bit more information.

The ownership of this transfer station will be a company called Waste Disposal Company, owned by Ken and Nancy Wilkens, who are here with me today. We would like to emphasize that this transfer station does have a viable business plan. It has an arrangement, as mentioned before, with Waste Management to bring in a given quantity of trash into the transfer station, which will make the overall project viable and sustainable and result in a successful disposal option for the County. As mentioned earlier, the trash will go to Rolling Meadows Landfill. That landfill is located north of Topeka. It is a sub-title 'D' site that has been designed to the state-of-the-art and has all of the required liners, caps and groundwater monitoring systems. It is one of the better landfills in the State of Kansas.

As you are aware, we are here to ask for a Conditional Use permit and a zoning adjustment. The site access issues, I guess were one of the main questions there. The primary routes into this site for the trash trucks will be West Street down to 55th Street South and across. That is going to be the trash collection trucks and the trucks that are leaving with the waste. There will be some faction of the public that may use the transfer station that may come from some other routes or there may be trash trucks that are out on collection that would be on other streets, but the majority of all traffic will stay on 55th Street South over to West Street and then up to I-235. We are more than willing to set up signs if need be to say 'turn left' onto 55th Street South for truck traffic, or whatever we need to do to help facilitate keeping that traffic route concise.

I would add that we do concur with the 130-vehicle trip estimate that Dale had mentioned earlier. I think it is also noted in your staff report the existing traffic counts on 55th Street. There is something over 3,000 vehicles per day. The counts on Hoover are over 2,000 vehicles per day, so if you look at the total percentage increase that this facility is bringing to the community, it is very small. We will preserve all natural screening and the 8 foot high berm that is proposed along Hoover will be constructed and that will be the only street where you will be able to see the facility. The view, until the 100 trees that we propose become mature, you will see driving down Hoover. (Indicating) This diagram that we have here basically shows what all four sides of the building are going to look like. A vehicle driving down Hoover will basically be able to see up to about elevation 1320. So the only part of this building which will be visible from a public street will be about the top 1/3 of this façade.

As you can note, it is going to look like a warehouse. It is going to be very hard to distinguish this from any other type of Light Industrial activity. You have a 4 bay facility where 3 of the bays are going to be used for the commercial trash that is coming in and the 4th bay will be available for the public that wants to come in and drop off waste. It represents a 4-pit transfer station where the transfer trailers will come through on the lower level and the trash will be transported down into a pit-type.

Again, I want to say that it is not only designed to comply with all state, federal and local regulations, but in a lot of instances, we are exceeding those requirements. It is in an enclosed building. Three hundred to five hundred tons per day is what we are estimating will be there at the beginning. I want to provide a little bit of clarification on the hours of operation. I think on the staff report it said 6:00 to 5:00 with permission to go for 24 hours per day. I guess our real intent is to go 6:00 to 6:00, but the 24-hour operation option would only be for emergency situations. For some unforeseen reason, if the public would need the facility to stay open for longer hours, we would have that option available to us.

One of the components of this design is that there is going to be a 40-person viewing area, and like an educational-type room for civic organizations or classrooms if folks would like to come out and watch the transfer operations. There will be a room that will facilitate that in the scale house. It will be available to the public and they will be welcome to use it. All the site roads are going to be paved and all of the disturbed areas will be vegetated in order to make sure that it is a clean, concise operation with minimal dust and problems.

As mentioned earlier, the water will be trucked in to the site. As Susan pointed out, water used in the wash-down of the transfer station will be containerized and transported to a wastewater treatment plant and the water used in the restroom facilities will be disposed of in a lagoon system. There will be fire protection on-site that will be provided by fire extinguishers. There will be a fire extinguisher located on all pieces of equipment as well as located throughout the building at various locations.

I want to say that at Burns and McDonald, we have built 23 of these transfer stations in the last 5 years, and the one that we are working on the final design with here, and taking through the process is going to be a top-notch facility. Ken and Nancy are very dedicated to making sure that this transfer station is efficient, sized-right and basically an asset to the community. We have been involved over a period of 2 years now, trying to locate a place for this transfer station. This isn't the only site we have looked at. We have gone through a very extensive process of weighting pros and cons and

negative impacts and positive impacts of various sites, and we believe that this is one of the best sites in Sedgwick County to locate this facility on.

In closing, we would like to reiterate that point No. 6 on the last page of the staff report basically says it quite well. Some time back when it was evident that Brooks Landfill was going to close, the County planners had to make some decisions about how solid waste was going to be handled in the County. It is obvious that transfer stations are a very necessary part of having a sustainable, disposable scenario for this county. This transfer station is a viable one, it has a solid operation plan, and I think it can be a very successful project. With that, I will entertain any specific questions."

MICHAELIS "Are there any questions for Mr. Cotter?"

MARNELL "On the site plan, what is the height of the fence that will enclose the area?"

COTTER "That will be an 8 foot chain-link fence. That is what we have proposed right now."

COULTER "If trucks have to stop and wait to be dumped, what kind of ground preparation is there going to be in those areas where those trucks are going to be stopped?"

COTTER "Can we put the site plan back up? (Indicating) This is going to be paved in this area, so basically the trucks can come in here, cross the scales and into this area, back into the transfer station to dump their loads; come back out and around, across the scales to exit. All roads, with the exception of the trailer-parking area will be paved."

WARREN "The bay that you have available for just consumer use, will they be able to pull in, turn around and track up when they back into that bay?"

COTTER "The design is still being finalized to some degree, but the scenario that we believe works best in other transfer stations is to do your turning outside the building, back straight into the building dock and drive out. The door arrangement there on the front of the building may change slightly so that we move one of the doors closer to the other two so that we provide a little more room for the public users so they can have more space to come in and unload."

GAROFALO "Will you clarify for me, the semis that would be leaving with the trash, you are saying that you are going to try to confine them to using 55th to West Street?"

COTTER "Yes, there will be a very specific route that those trucks will use. They will come out the driveway, hit 55th Street, take a left, go to West Street and take West Street out to I-235."

GAROFALO "You are talking about the hours of operation from 6:00 to 6:00?"

COTTER "Yes, sir."

GAROFALO "How many days?"

COTTER "It would be 5 days a week, Monday through Friday and there would be the possibility of being open on Saturday morning if it looked like the public would use that option."

GAROFALO "Okay. You mentioned something about 24 hours in some sort of an emergency. What would you consider an emergency, or what are you talking about?"

COTTER "In the event of a tornado or a severe ice storm or something like that. Some sort of a natural disaster. Normally, yard waste or C&D waste wouldn't be handled through this transfer station, but if there would ever be a need for that, it could be switched over for that type of operation."

GAROFALO "Otherwise you are saying it would be limited to 6:00 to 6:00 five days a week?"

COTTER "That is the business plan right now, to operate for those hours."

MICHAELIS "Are there any further questions of Mr. Cotter?"

LOPEZ "Is Waste Disposal, LLC a current hauler or contractor in Sedgwick County?"

COTTER "No, sir."

LOPEZ "They are just a company that is wanting to open a transfer station?"

COTTER "It is a company that has an agreement with Waste Management and Gutherie Wilkins Trailer Company has been in the trailer sales and servicing business for years. That company has established an excellent reputation in that industry and the trailer aspect is a very important part of transfer stations."

GAROFALO "Would the roll-off boxes be covered?"

COTTER "Yes, they would have lids on them."

GAROFALO "How often would they be disposed of?"

COTTER "Those boxes will be there primarily for yard waste or construction and demolition waste that would get brought in, but is probably is not the normal waste flow and they would just be taken out as they were full. So it would depend on how quickly they filled out. But you know that you are talking about chunks of concrete, dirt and things like that that wouldn't have an odor or putrescible aspect."

GAROFALO "Is there any plan for cleaning up the stuff that may end up flying around?"

COTTER "The building is 100 % enclosed and it is going to be a pretty rare incident that any trash would blow outside that building. If it does, it will be picked up immediately. The transfer station itself will be cleaned out and washed out once a week."

MICHAELIS "Thank you, Mr. Cotter."

MCKAY "I would like to hear from Ms. Erlenwein again."

SUSAN ERLENWEIN "To answer the question about litter patrol. The county regulations require litter patrol within half a mile radius of the facility, so if any debris does get by the building or the 8 foot fence, they are required by our regulations to go out and pick up along the roadsides and the neighbors' areas."

MICHAELIS "Is there anyone else here to speak in favor or this? Okay. How we are going to handle those to speak in opposition is that I am going to go off of the sign-ups lists. What I am going to ask you to do is read a person on the list, and then the next person behind that. If that second person can start making their way up there so we don't have a lot of downtime waiting for various people. If there is anyone to speak for a specific organization or someone representing a group of people, we want to hear them first."

WARREN "I would like to know in advance how many speakers we have, and are we going to limit it to those we have on the speaker's list?"

MICHAELIS "We have 28 signed up on the list to speak. Yes, we are going to limit it to the ones that have signed up. Once again, I will reiterate that if somebody gets up and starts saying the same thing that somebody else said two times ago, I am going to cut you off. We only want to hear things that are relevant that have not been previously stated."

WARREN "I am going to make a motion, with that number and with the interest of bringing this to an end that those speaking would be limited to 3 minutes."

MOTION: That the speaker's time be limited to 3 minutes.

WARREN moved, **MARNELL** seconded the motion, and the motion failed with 2 votes in favor and 10 in opposition.

RUSSELL MILLS "I am an attorney representing the Waco Township Neighborhood Association. I have some additional exhibits that I would like to hand out at this time."

MCKAY "It has just been brought to my attention that this gentleman is one of the owners of the transfer station in Derby, is that correct?"

MILLS "That is correct."

MCKAY "Is that a conflict of interest?"

MILLS "I am serving as their attorney, not as an owner of a transfer station. May I proceed? Thank you. The issue before us today is a land-use issue. That is obviously what we are here to determine. The issue is, is it reasonable to put a transfer station at this particular location? The people I represent, the people in this room, say emphatically, no, it is not reasonable to put a transfer station at this facility."

In order to make that determination as to whether or not it is reasonable, what we have to do is look at the review criteria set out in the Zoning Code. Those criteria were set out by the Kansas Supreme Court in the case of Golden versus the City of Overland Park, as I am sure you are aware. I am going to try to keep my comments to determine the issue, which is the reasonableness. So, in preparing our report, we decided that we would make our report follow the so-called 'golden rules'. I have provided to you each a copy of the report and I hope you have had time to review it. I know we got it to you a little bit late last night, but we do believe that it adequately covers each of the golden rules. If there are any questions at the end of my presentation, I would be more than happy to answer them.

To review the first criteria. The first criteria are the zoning uses and the character of the neighborhood. In reviewing the staff report, staff indicated to you that on three sides of this property you have an 'SF-20' residential side on three sides. On the west side, you have a nature habitat. This area is also within the Cowskin River basin. Within that Cowskin River

basin, there is an endangered species that we believe may be jeopardized if this transfer station is allowed to go in. But as to the character of the neighborhood, it is agricultural and it is large-lot residential. That is what the zoning says, that is what it is. That is what is always has been.

The streets do not presently support a transfer station. When you look at the Solid Waste Plan, the one that has been approved, there are recommendations within that plan as to the citing of transfer stations. One person commented that these were supposed to be built close to large highways that were capable of doing this, such as K-15 highway; K-96 and things of that nature. Obviously, 55th Street and Hoover were not contemplated as haul routes to transfer stations. In fact, when you look at the Solid Waste Plan, Waste Management, BFI at that time, now Waste Connections, indicated what the major haul routes would be. The only one that is only remotely close to this site is what is known as Southwest Boulevard or K-42 Highway.

Also, the Solid Waste Plan indicated that the transfer station site should be centrally located so that it is close to the haul routes. Obviously, this location is not centrally located. It is in the southwest corner of the county, and it is not close to the major haul routes. So we are going to have damage to the roads caused by these heavy trucks. If you look in the Solid Waste Plan, there has been a report done that indicates that for each ton of trash that goes down a street, you are going to have 6 cents worth of damage to the road. Now, when you are dealing with hundreds of tons of trash per day, that is going to be a substantial damage. There is nowhere that I can see in the applicant's report that is going to reimburse the County for that damage. So that is something that we believe this Planning Commission should look at.

The second criteria, the suitability of the subject property for the use to which it has been restricted. Staff has indicated that this property is suitable for its present use. "

MICHAELIS "Sir, your time is up, do you need more time?"

MILLS "Yes. I do."

MOTION: That the speaker's time be extended for 2 minutes.

MCKAY moved, **WARREN** seconded the motion, and it carried unanimously (11-0).

MILLS "The third criteria is the extent to which removal of the restrictions will detrimentally affect the nearby properties. There are numerous detrimental effects to this property. One of them, we believe, is the substantial devaluation of these folks' property values. You need only look at the Sedgwick County Appraiser's report regarding landfills and the effects that the proposed landfill up at Furley was going to have to the folks in that area.

The Sedgwick County Appraiser's report indicated that over a 21-year period, the lost wealth that people like these folks right here was going to be \$1billion. We believe that there is going to be a similar effect if this transfer station is allowed to be sited so close to a residential area. Also there was a comment made, 'Are we overbuilding for the amount of waste that we have here?' Absolutely. Absolutely. If you look at the Solid Waste Plan and you look at the recommendations and what the County Commission has decided to do. Right now, we have 1,400 tons per day. Of that 1400 tons per day; however, you have 19.5 % that is C&D waste. That doesn't go to a transfer station. That is 292 tons per day that won't be going to a transfer station. Of that figure in 2003, you are going to have yard waste that will not be going to a transfer station. That yard waste totals another 187.5 tons per day that will not be going to a transfer station in 2003. So we probably have 1,000 tons of trash per day subject to disposal."

MICHAELIS "Thank you. Are there any questions of the speaker? Thank you, sir. Is there anyone else speaking for a group? Please come forward."

TERRY FAELBER "I live at 5300 South Hoover. I happen to be the property owner that lives within 300 feet of this trash dump that is being proposed. Last night, I drove around to a lot of your homes and delivered our handout booklet to you. While driving around and seeing where you all lived, I was kind of thinking about my situation. What do I say up here today? How do I convince 14 people not to destroy the property I worked for for the last 10 years? My wife and I bought this over 10 years ago. It has 3 ponds on it; it has a creek on it. We have let 70% of it stay in wildlife because we like the wildlife area. I live in a trailer home. We have for the last 10 years. We saved our money; we paid off this piece of property—a 30-year note in 9 years. As of a couple of months ago, we started to break ground on our brand-new \$300,000 home and then I found out there is going to be a trash dump right beside me, 300 feet away. I thought 'how would you like it if someone put something like that 300 feet from your home? How would you feel?'

When you listen to these people today, you are going to hear repeated stories of what it is going to be like to drive these trucks daily, by the hundreds in front of their homes, in front of their schools and the problems it is going to give them. All I ask is that you keep one thing in mind. Think about what it would be like if it was your home. How would you feel? I think you would be over here on this side of the group, too.

I have here over 2,500 petition names, gathered in some of the worst weather we have had in the last three weeks. We have had people going out in rain, sleet and snow, below zero weather, going door to door, and talking to everybody. Some of the people you are going to hear today are going to be principals of schools, other politicians from the surrounding Haysville area, from Haysville itself. They have come out totally against this. This is within 1 mile of the Haysville city limits. Haysville can only grow in one way, and that is to the west side. This transfer station is directly in

their growth pattern. The only other area they could grow would be south. They have considerable growth on the west side of their city.

You are going to hear from businesses, real estate agents, and construction people that are building home in the area. There is pretty good growth going on around the Oatville school area. There is another pretty good growth area going on along West Street. Hundreds and hundreds of homes are being built along these corridors. This could bring this growth to a stop. So you are going to hear from all of these different people who have valid concerns and this is going to affect their lives in one way or another from this epicenter of this particular location.

Our lawyer mentioned briefly about the endangered species. There is actually an endangered species that lives in the Cowskin Creek Basin. This particular transfer station is setting on part of what is considered the basin area. Quite frankly, me and my wife have left a lot of our property into wildlife, as I have said to help facilitate this. KG&E has built a wildlife pond just across the street to bring in waterfowl. We have numerous deer, coyotes, foxes, turkey, quail and pheasants. I have a Bobcat that lives on my property that is bigger than a German shepherd. She is huge. We see her from time to time. In fact, she walked up within 40 feet of me when I was mowing the grass one day. It scared the pee out of me, I might say. But there is a lot of wild life around this particular area. Vulcan Materials is planning to build another wild life habitat area just a mile south of this area that is going to encompass a couple mile areas that they own. They are going to turn back into natural grass. In fact, one of the things they are going to be coming up to you people on shortly is to close off 63rd Street between Hoover and Ridge Road so they can provide this type habitat area. These are things I would like for you to keep in mind. I thank you for your patience in listening to our group."

MICHAELIS "Mr. Faelber, did you state which group you were speaking for?"

BRUCE ARMSTRONG "The Waco Neighborhood Association."

MICHAELIS "Thank you. Are there any questions of Mr. Faelber? Thank you, sir. Next speaker representing a group."

BRUCE ARMSTRONG "I am the Mayor of Haysville, representing the City Council, the Planning Commission and the residents of Haysville, which is, as you know, a town of over 10,000 plus. We, too, feel that this would be a real detriment to the area as far as the roads and traffic areas. We have two schools at 55th Street, Campus High School and our newest one, Ruth Clark Elementary. Both of those are within a very short distance of what this traffic pattern will be. We understand that here is a traffic pattern that has been set, but I feel very seriously that you can't control that traffic pattern. Not only that traffic pattern will affect, we think, around this area, but this traffic pattern will also affect the City of Haysville. Trucks coming through the City of Haysville itself will act as a detriment, not only to the roads around 55th Street, but we feel the roads within the City of Haysville also.

You are also going to hear, I think, from environmental concerns. We, too, feel that there are environmental concerns that will affect this area greatly. With that, I am going to leave time for the rest of the people. But we do want to make sure that you know that the City of Haysville Planning Commission and the City Council is very opposed by unanimous votes to having this transfer station."

MICHAELIS "Are there any questions for Mr. Armstrong? Thank you, sir."

DORMAN BLAKE "I am with the Riverside Wellwater Homeowners' Association. I live at 827 Wallingford. I have just recently been annexed into the City of Wichita. When it comes down to this thing being out of the flood plain, I have some pictures I want to pass around to you guys. When it rains out there, this place is completely saturated with water. You can have these.

Also, when you all took this count for these vehicles, did that count mini-vans and grain trucks? It says right here 'appropriately zoned adjacent to a major highway'. Are you talking about Hoover Road or are you talking about K-42?"

MILLER "The count is a total count. The County puts down counters and whatever drives over it, it triggers it and they count it. It doesn't discriminate between what type of vehicle. The major highway thing Susan addressed, that was the original Solid Waste Plan. When it was amended, she indicated that they dropped that out to where it is just paved access and doesn't require a highway."

BLAKE "I am just going to read you a brief letter here. I'm not really here to fight anybody. The letter says 'Good afternoon, I am Dorman Blake. I am the President of the Riverside Well-Water Homeowners' Association; I am a District Advisory Board member in District No. 4. The Well-Water Association represents an area between 55th Street, 63rd Street, Seneca to Hydraulic, from Hydraulic to 71st Street and to the river. The property is contaminated enough after all it is located around a chemical plant. During heavy rains, this area is highly saturated with water. You would be potentially adding harm to an already harmful area. I believe that the County has bit off more than they can chew between modular home parks, transfer stations, water and no safety infrastructure. You now have citizens that are now tired of you folks dumping on them in South Wichita and Haysville. Take that transfer station out east, or at least take it to an isolated area where no one lives. The roads cannot take any more industrial traffic on a two-lane blacktop. Is it fair to the school district or its students to congest an already congested area? How many of you have been in this particular area at its peak time with buses and high school traffic?'

Can anybody answer that question? How many of you all live down south?"

WARREN "I do."

BLAKE "How far do you live down south?"

WARREN "In Derby."

BLAKE "Okay. Well, I guess you have one at your place, too. Okay. I can't get you today. Okay, we have a traffic study, but you know, this area has had a couple of tornados where I am, and you know that those two lane blacktops and those big ditches and the traffic that is already coming through there, when that high school lets out, that road is all the way packed from Seneca all the way down 55th Street. I just can't understand why anybody would want to put a transfer station around three schools, have trash flying around when you have people down in those areas trying to make do with what they have already without having to have any more harm brought to them.

You need to refrain from hurting the citizens of South Wichita and Haysville. The Riverside Wellwater Homeowners' Association retained a lawyer to represent its 300 plus members, concerned objectives and other legal matters pertaining to certain areas. I want to ask one more thing before I leave. Has anybody done an environmental study on this site?"

(Pause)

MICHAELIS "That is information we obviously don't have. I don't know whether that is pertinent."

BLAKE "It is pertinent."

MICHAELIS "Well, as far as what we have to review, we don't have one."

BLAKE "Well, I think somebody needs to do one. I have an NEIC study here from the National Enforcement Investigation Center of Denver, from the US Environmental Protection Agency Offices of Enforcement, and I think you need to do one."

MICHAELIS "Are there any questions of Mr. Blake? Okay, thank you. Okay, Ma'am, go ahead."

LINDA PATNAUDE "I have been driving a school bus for the Haysville schools for 15 years. The drivers are very concerned about the safety of our children. This transfer station will cause many problems for the drivers. We have approximately 60 buses coming in and out of the Oatville Elementary; our brand new Ruth Clark Elementary and Campus High School. We transport 40 to 70 children on each bus. The traffic is already so bad at Campus, as you just heard, that we have a person controlling traffic so we can get out on Meridian and take the students home. Then we immediately have to go to our elementary routes.

The added traffic of these trash trucks will cause major delays for our elementary routes, causing stress on our drivers. Also, this could possibly cause the district to have to add additional routes to our already tight work force. If we add routes, this means more drivers' wages to pay and the purchase of additional school buses. The trucks will be tearing up our now two-way streets. We have no traffic control lights in these areas, only 4-way stop signs. These roads do not have shoulders and when we pull one of these huge busses out, it takes both lanes, which means we have to wait for both lanes to clear. There is nothing worse than waiting for traffic to clear when it is 95 degrees and you have a busload of tired, hot, hungry, loud, thirsty children and you are the seventh bus to get out onto 55th Street, leaving Ruth Clark Elementary. When it is 95 outside, it is hotter than that sitting right next to a diesel engine.

Please, we beg of you, don't put this trash transfer station in the middle of our hub. Thank you."

KEVIN MCLAUGHLIN "I live at 3814 South Dugan. A consideration of the recommendations of professional staff that supports the application but is based on flawed reasoning. Staff does not have the benefit of the information contained in the Waco Township Neighborhood Association report until the application is filed and some time is allowed to give people to voice their opposition. The staff cannot know the extent of the opposition. Staff does not mention the fact or criteria of the length of time that the property has remained vacant because it has not.

Staff is not correct as to the conformance of the application as the requested zone change and Conditional Use permit does not conform to the Comprehensive Plan. Staff did not take into consideration all of the impacts on the community facilities. Staff disregards the Comprehensive Plan and recommends taking additional agricultural land out of production. Staff may not have been aware of contamination of the groundwater under the property at the time that staff made its recommendations. Staff disregards the waste management plan citing requirements for a transfer station. This site does not meet them. In fact, it does violate them in the following ways:

1. The property is not presently appropriately zoned.
2. The property is not adjacent to a major highway to minimize the impact of truck traffic on the neighborhood roadways.
3. The property is not centrally located to increase efficiency for haulers.

In fact, this property is somewhat off of major haul routes for the major trash haulers in Wichita. This property is not and cannot be shielded from residential areas as the height of the building will be at least 25 feet.

Staff does not admit that the subject property is suitable for uses to which it has been restricted. The subject property has single-family residential zoned property and agriculture property on the north, south and east with a nature habitat on the west. The County has a choice of two already approved transfer stations that can take all of the trash generated in Sedgwick County.

To this, I would like to add that I see no gain in this venture. The only profit from it being in this location is for the owner-operator. Studies show that the impact that these studies have on surrounding communities to include increased sickness and disease; lowering of property values and the degrading of nature and roads. I do not see any benefit in bringing this so-called improvement into a residential community. Let's put aside the fact that all of us have emotions against this transfer station, but let's think of the cost of our homes' value dropping; let's think about all of the revenue the city will lose due to the drop in our property taxes.

I feel after seeing that this company has conducted business in Topeka, and the fines against Waste Management and the Rolling Hills Landfill speak for themselves. I won't be deceived into believing that this waste transfer station will change operations just for us. During my travels and in getting names on my petitions, I did not meet anyone in favor of this station. I found those who were undecided and who wished to gain more knowledge before they made a decision, and I also saw many of those whose petitions you have seen that have signed this and are opposed to this. I feel that that shows how our community is greatly against this and I don't see anyone who is operating this station or owning this station putting this in their back yard, so I would wish them not to put it in mine."

MICHAELIS "Are there any questions of Mr. McLaughlin? Who were you representing?"

MCLAUGHLIN "The Waco Township Association."

MICHAELIS "Thank you. Are there others speaking for groups? Okay, if not, we will start going down our list. I would make a suggestion or a comment to the Commission; I think the point of traffic and accessibility has probably been pretty well gotten across. Is that the consensus? Okay, so let's try to bring up different things from that that are relevant."

BILL COMPTON "I live in Riverside Township at 1000 West 55th Street South in Wichita. My zip code is 67217. I actually live in Riverside Township but the Waco Township is right to the west of me. I got involved in this and I am opposed to the transfer station. In fact, I am opposed to transfer stations entirely. I find that in the discussions I have heard today that nobody has talked about the cost the transfer station is going to be. The dumping fee is currently \$26.50 and the City picks up \$8 of every ton. The state picks up \$1.00. Now if you take and add a transfer station, since they are going to be privately owned, there is still the economy involved. There is going to be a double cost. You are going to have the one cost of the original dumping and then you are going to have another cost of transfer and dumping again. Whether these private enterprises don't have franchises, there is still going to be some sort of municipal, county or government cost involved.

As far as transfer goes, it is wasteful. It is unhealthy and unsanitary, and I would urge that we look at another method of getting rid of our trash and treat it as a renewable resource. We can take trash and process it and every ton of trash produces four barrels of oil. It will produce .43 of a ton of carbon; it will produce 8,900 cubic feet of combustible gas. These are heat-producing materials. You can burn them, you can process them, you can take the carbon and make charcoal briquettes for barbequing, you can take the oil and process it, or you can burn it in a coal burning or an electric plant, or you can process it and make other substance from asphalt cement to kerosene, alcohol and other materials. And the gas is burnable. It has a heat content. You can run an engine with it. These are things to be considered and it would help us considerably in eliminating the disastrous effect that this transfer station business is causing us. It is going to be a hot potato and I suggest that we think of other things. I have done this idea of technology, and to understand that technology is one thing, but to put that technology to work is very promising and very viable and very real. And it works, because I have done it. Are there any questions?"

BILL VANDERHOFF "I live at 6220 West 47th Street South. I presently own about 400 acres in the general area. I am a lifelong farmer in the area; I have farmed in the area for about 50 years. The land is mostly agricultural, but it does have other values as most of you sitting here know. You could possibly cost me \$200,00 to \$300,000 just by putting this thing in. But I have other reasons for being here. I also farm some land for a fella by the name of David Wall and his family. Their land is right south of the Oatville School on both sides of Hoover.

David Wall is a Physics Professor at the San Francisco City College in San Francisco California. When he heard about this, he called me and said 'these things are awful'. He said they had put one of these transfer stations near his home and that the trucks come and go constantly, tearing up the roads and filling the ditches with trash. David said these stations absolutely need to be near good, four lane roads or on an Interstate highway. He also said that they need to be in an industrial area in town to save driving distance, and there isn't any need to pollute any more area than is already polluted.

I have that down at the end of my notes, but I don't know if you realize that the City of Haysville's water wells are located southeast of this site, and there is already pollution in the area south of this transfer station. Water runs from the northwest to the southeast underground. The nearest wells are probably within 2 miles of this proposed transfer station. So I don't know what you propose to do if you ruin Haysville's drinking water. Also, in that area there are several irrigation wells, and when they are all pumping, there are probably 10,000 gallons of water a minute coming out of the ground in the area south there if you put them all together when they are all pumping. I happen to farm one of them. It pumps 700 gallons per minute. We have been fighting trash in the road ditches for years out there. I can't imagine how it would be with this. I know they said these were covered trucks, but he also said it was going to be open, I believe, to individuals to haul in, and I know that quite often they are not covered.

Also, the tonnage he said—I don't know how much these trucks haul, but he said 130 trucks, and I think somebody said 500 ton or 600 ton a day, and those trucks are tandem axle trucks and they would surely haul 10 ton apiece, which would

come closer to 1,300 ton than it would 500 ton, if I am right on that. I am just going to hit a little bit on the highway thing because I don't think you do have good access. On your traffic study, did you study the traffic from MacArthur north on Hoover? Because you have all of Cessna's traffic coming up through there and to get there, some of them are going to have to come that way.

It was talked about the wildlife habitats. Also, the Chisholm Trail is in that general area. There is a beautiful cemetery there across from where I live on 47th Street South. Probably as nice looking of a cemetery as there is in the area. That is about all I have to say. You mentioned that the public will also use this facility. How will you keep the trash off of the roads? He said within half a mile, well there isn't anybody that is going to travel half a mile to get there. They have to come lots of miles to get in there. Thank you."

JANET BAPTIST "I live at 3656 Dugan. I lived in the area for almost 10 years. My son went to school at Oatville. The Principal is here. We don't need this. We really don't. On Hoover Road, the guy who is proposing this failed to tell you that there are several thousand homes in the area, just north of this site about two miles. We just got annexed into the city. We don't need the trash. We really don't. We are hoping that you guys will defeat this. All I can say is that I hope you do, because we don't want it."

CLINT RENOLLET "I am the owner of Renollet Construction Company. I have lived out in this area for the last approximately 38 years. I own property, I live out there, I have built out there, I have developed out there. I have built west of the Big Ditch and I have built east of the Big Ditch.

I don't know how many people here can remember, but back about 25-30 years ago, right north of this property, right on the west side of the Big Ditch and east of Hoover Road, at one time they proposed to put a big dump there just like they did Brooks Landfill. We showed up as property owners and people's right to fight that thing, and did we ever fight it. We fought it and we beat it. Since then, property within 2 miles north of this and on the east side of the big ditch has been developed. Since all of this property has been developed and lots of houses have been built, it is funny to me that the City wanted to take it all into the City a while back and they are fighting to get it. I just wonder, if they would have put that dump on 47th Street South and the Big Ditch back 25-30 years ago, how much of this land would have been developed to this day? And how hard would the City be fighting for the tax base of vacant land as we talk here. I doubt very hard.

I have heard all of the talk on the major highways and such as this, and I totally agree with that. If you want to take a look at what it does, drive up along K-96 where everybody has taken all of the trash as they are now. Take a look at the trash along fences, along the highways. Granted it is a major highway, and if they are going to be transporting it to major places, then they should be near major 4 lane highways to be able to do this and not go by the Oatville School and Campus High and Ruth Clark and all of these residential areas and start destroying everything else, such as habitat.

As a property-owner, and as a builder and as a developer, I will tell you that I have done a lot of building in my life time, and I know a lot of you guys here on this board and know that you have done a lot of building and developing, and I am not sure you would want to develop any land in areas like this. I know I wouldn't. I shy away from it. Then they talk about K-15 down at Derby, it is a major highway and it has been down there for years. It is not unknown because they do have a trash dump down there, but I assume this is going to be put by the trash dump—I am guessing. What I would recommend, if they do anything, if I have anything to say about it, why can't they put a transfer station right at Brooks Landfill? That is what I would like to know. And if they have another area up north where they are already doing this, they ought to be able to do the same thing where they are doing the stuff now if they are going to do it inside and if it looks so great. Then the EPA and the City ought to appreciate it instead of certain individuals fighting this. I'll tell you what, I think a lot of people here would agree on that. I think that is all I have to say. Thank you."

SUE DAVIS "I live at 2233 West 46th Street South in Southwest Wichita. That is right off of 47th Street South and Meridian. Bear with me, I am getting over a cold. I hope you can all hear me okay. I am going to try my best to stay within the 5 minutes. I know that you have heard a lot about the traffic, but I would, for just a minute, like to address another area that could be a traffic concern to my particular neighborhood. We have determined that the most direct route between the site and I-135 as well as the Turnpike will be 47th Street. There will be trash trucks making multiple trips daily, semis transporting trash to Topeka via the Turnpike, and tanker trucks transporting wash down water and leachate to the sewage treatment plant for disposal as well as a significant increase in car with people coming from I-135 take loads to the dumpsite. The stretch between Seneca and Meridian is a 2-lane road with no sidewalks and very steep ditches along both sides for drainage. This street has numerous school bus stops along it as well as a large amount of pedestrian and bike traffic on a regular basis. Cessna Elementary School is 1 block north of 47th and will also be impacted by the increase of traffic.

Because the roads are open to all vehicles, there is no way to control the routes that these trucks take in their daily runs. It will inevitably be the most direct and easily accessed routes. There has already been a great increase in traffic to our area due to the new soccer complex on 47th Street, which causes traffic jams in the spring, summer and fall and because my neighborhood has only one street accessing it for approximately 60 homes, we already have problems getting in and out during this time. The added constant truck traffic would increase chances for major accidents with higher injury and death rates because the size and weight of these trucks don't allow them to stop easily. We are also just outside the clean up sphere which Waste Disposal is responsible for and don't want the ditches along 47th Street to become cesspools of scattered rubbish and truck leachate.

We are very concerned about the impact about the four schools that are

along the roads which will be most used, including interference with bus traffic. We have been told that this dump will not be in operation for 24 hours a day initially because their incoming loads won't warrant it; however, once the permit is granted, can they continue to increase the size of their operation until it reaches the maximum allowed for a site of this size? I don't know what the maximum size of facility is allowed for this lot, but most dumps that we have heard of are 15 to 20 acres and this is 48 acres, which is significantly larger.

On Page 3 of your staff report, it says that the State regs allow for no trash to be on the premises for 48 hours, but actually, the KDHE regulations state that less than full trailers can sit on the property for up to 7 days or longer due to weather or abnormal conditions. I don't know what that means. In response to Page 6, No. 6 of your staff report entitled 'relative gain to the public health, safety and welfare, which, by the way, doesn't address any of those topics. You have set forth the position that it is important for the community to have a choice of facilities in order to maintain a competitive between service providers. I would like to submit to you that in talking to area residents, they would be willing to opt for less choice if it meant that they wouldn't have to worry about a trash dump being near their home or neighborhood school.

The name waste transfer station sounds antiseptic and local government officials have tried to make it sound that way, but we all know that a dump is a dump. Other communities complain of the smell due to huge exhaust fans used to vent these facilities, rodents and problems for the nearby residents who have allergies, asthma, and emphysema. Considering that the other two trash dumps, which are being built, are next to existing landfills, where they belong, we are the only garbage targeted area of town. Waste Management has a policy in other communities of targeting certain areas for stations which they think can't fight back due to existing pollution and because of Vulcan Chemicals, probably think that this site will pass easily.

It would seem that the discriminatory attitude of many government officials and residents from more affluent areas of Wichita is that any needed project that they don't want in their neighborhood should be put in South Wichita. After all, we already have the sewage treatment plant, Vulcan and most of the mobile home parks in the city. A dump won't hurt because our property isn't worth much anyway. Please don't demonstrate a callous insensitivity to the adverse impact of foul odors, rats, uncontrolled truck traffic and airborne disease while at the same time bending over backward to protect capitalism and the free enterprise system. We understand the trash problem you are trying to solve, however, we want these dumps kept away from neighborhoods and schools and put where they will have the least impact on residents. Thank you."

MICHAELIS "Thank you, Ms. Davis. Any questions of the speaker?"

BUFORD GEORGE "I live at 3651 South Gilda. My concern for this area is that we have several teenaged children that drive this exact route every day, including my granddaughter. That is the reason I am most concerned about it. These big vehicles that turn onto and off of this area will cause a considerable amount of traffic backup. I didn't hear anybody mention the traffic on MacArthur or West Street. It is bound to cause a lot more congestion than we have right now. In the evenings from about 2:30 to 5:00 it is so congested that you can't hardly get in and out of the area where you live now. When you add these other vehicles turning onto and off of this particular street, it is going to back that traffic up and it is going to be almost impossible to get out of the area where you live. That is all I have to say."

JED JANSSEN "Good afternoon. I live at 4201 South Boyd, approximately 1.5 miles from the proposed transfer station. All of the issues that you have been hearing and will hear this afternoon are excellent issues on not building this transfer station. I really can't think of too many good ones. Now, the main subject here is trash. This problem didn't come up overnight. We won't be able to solve it overnight. It needs to be taken care of through a study through the community where we can all come up with some type of an agreeable process of what to do with our trash situations. The companies involved here have engineers and statisticians who can pretty much say whatever they need to to get this thing passed. The main issue here is money. Somebody is out to make lots of money. We can't forget about some of our other communities, such as Hutchinson or Conway, Kansas, if anybody remembers that little place. These are all results of large companies coming in and forcing things down people's throats and then say 'whatever the consequences are, we will take care of that later'.

I am here to defend my house; my American dream. I am totally opposed to this transfer station. Anybody that has been down to this proposed site and has taken a look at the surrounding areas will give you an idea that they have a total disregard for any of the small homes in the community in which they are putting this transfer station. I have one child at Oatville Elementary and two children that are going to Haysville High School. Yes, I am concerned about the traffic and everything else that goes along with this, such as the health issues and the environment, etc. But I would really like to just let everybody try to sit back and see if we can come up with a better solution of what we need to do with our trash. It is kind of nice to see a bi-partisan group of voters and taxpayers here to all support one issue. Not to put this dump in our back yard. I don't want these for my neighbors. Thank you."

MICHAELIS "Thank you, Mr. Janssen. Any questions of the speaker?"

LORI BOROUGH "We are here to represent our children. We live at 55th and Hoover at the Wheatland Addition. We don't want this dump in. We have little ones from newborns all the way up that go to Oatville Elementary. That goes to the 5th grade. I hope seeing these beautiful children here today with me that you will have a heart. Please don't hurt their health. That isn't fair, just to put trash in. Take care of them. They are the first and most important things. Thank you."

ANGEL ACOSTA "I live at 5612 West 40th Street. Like many others, I am here talking about my home. We just moved in here in November and it was sprung to me in January. I saw a notice on the Total Station door about a waste station

going in. We looked extensively for the last couple of years to find a nice place to raise our children. With each of the realtors, we gave them a list of the things we had to have. This was not one of them. I was completely surprised by this. I am just telling you that I want you to help me keep my place safe for my children. We looked very hard to find a place that had a basement to protect them against the tornadoes in the area, sidewalks so they would be out of the traffic. Of course we have some older ones, too, they range from 10 down to 1-1/2. Eventually, they will be out here on the two lane black top road riding their bicycles and thinking that they can go over to the Big Ditch and play and it is going to be difficult for these things to happen now. There have been worse things in life, but this is really shattering to what we had planned for our children. I am asking everybody here to vote against this application and keep us safe. Thank you."

CLAY MAGANA "I have lived out in this Oatville neighborhood for 13 years. One of the things that drew me to this neighborhood is the fact that I grew up in the country. When I first came out here there were wheat fields all over the place. It was a very soothing thing. We have some exhibits here that go back 50 years and we would like to enter these into the record. It shows that this property has been agricultural in nature for the last 50 years, probably since forever, since we started farming here. It needs to stay that way. If we are going to be putting in trash transfer stations and things like that, there are plenty of industrial sites within the City of Wichita. The City of Wichita does not want the transfer stations within the city limits. Why? So they can push them out here and destroy pristine farmland. I hate to see it come to that. I would appreciate your support. Thank you."

JACKIE PALMER "I live at 2250 West 46th Street South. That is right across from Sue Davis. I was going to talk about our traffic congestion at 47th Street, but she covered it. I have been involved in this since I first read an article in the Wichita Eagle about this proposed transfer station. My husband and I decided to write an article right away on it because we disagreed with it. I have also read a lot of information on the web site about environmental problems and health concerns for people either working in the area or near the area. I found out that we were only about 3-1/2 miles from this proposed site, so we would be in that category of people having more problems if they had respiratory problems like emphysema, asthma or lowered immunity systems. I thought of my Grandson, who has asthma and also lives in this same area. I, myself, have diabetes and a lower immunity problem myself.

After those thoughts, I thought about the elderly neighbors and how this might affect them. The websites I researched talked about different studies of trash transfer stations. One of the studies I read about, by the American Lung Association, talked about the outdoor air pollution that would be a public health concern to our being so close to the site. The dust, microorganisms, viruses, and bacteria that these sites created, and the diseases of the rat population would bring to us.

Washington, D.C. did an environmental study in 1993, talking about increased insects, rats, flies, and mosquitoes carrying different diseases that can be transmitted to humans. These studies talked about the noise level and the diesel exhaust from the constant back-and-forth of these big trucks. These studies even talked about diesel exhaust having cancer causing potential.

I would like to read now, a few comments per the attorney Russell Mills was talking about—agricultural problems and zoning. The proposed zone change and Conditional Use does not conform to the present solid waste plan. Pursuant to the Comprehensive Plan, industrial development in rural areas should be allowed only when it is agriculturally oriented, dependent upon a natural resource or an extension of an existing industrial area. None of which can apply here. The present zoning is 'SF-20', and is compatible with the suburban designation of the Wichita/Sedgwick County Comprehensive Plan. This classification recognizes that a segment of the population desires to live in a semi-rural setting of density lower than urban levels.

The MAPD staff recognizes that the Comprehensive Plan identifies this area as appropriate for rural areas. Rural uses include agricultural uses, which is a classification designed to protect prime agricultural land from premature and unnecessary conversion to other uses. The Industrial designation is intended for application primarily within the City of Wichita. The 'LI' zoning is intended to accommodate moderate intensity industrial uses. The transfer station will not be a moderate intensity use. The Comprehensive Plan states 'when possible, development should be encouraged to take place in areas that would not diminish agricultural productivity and its contribution to the local economy'.

I would also like to make a comment that at West Street, it dead-ends at 55th Street. There is a very sharp curve and a lot of congestion there. Of course, we are going to have the trash in the neighborhood with the combination of several hundred trucks per day, a trash transfer station and the wind in Kansas. What can we do? We don't have a chance. It would be a trashy area. As it is, the city does not seem to find the money or the time to clean up our streets down here now. Why should they believe that a trash transfer would do it for us? As I said, our property values will go down. There is no doubt in my mind about that. Who would want to live in an area where they hear about this thing? As any real estate agent will tell you, location, location, location is the most important factor in selling or buying a home. Will our area become more industrial than residential like it is zoned for now? Will the residents keep up the maintenance or make improvements when it starts looking and smelling bad in our area?

I have read about trash transfer stations already built in other cities and various states and the information I have found is very negative towards these sites. They talked about noise, litter, heavy traffic, child safety, decreased property values, odor problems, air and water pollution, the killing of wildlife. These are the same reason that we, in south Wichita, Oatville, and Haysville are worried about this happening to us. They talked about the transfer trucks not taking the truck routes they were supposed to take. The high speed and the neighborhood streets, and the litter they left behind, and the odor."

MICHAELIS "Ma'am, your time is up."

PALMER "I have one more paragraph. May I have about one more minute?"

MOTION: That the speaker's time be extended for 2 minutes.

MCKAY moved, **LOPEZ** second it, and it carried unanimously.

PALMER "The residents I have talked to have all told me that they think this trash transfer station would have a negative impact on the whole community of the south side of Wichita, Oatville and Haysville areas. We would like for this area to stay zoned for residential and not become a high industrial area. We felt this proposed site would be very detrimental to the character of our neighborhood, and all property surrounding this site and would not be good for the health, safety and welfare of our community. We do care about our area and we want it to be a place where others would want to live, too. We hope that another location can be found for this site that is not near our schools and our residential areas."

MICHAELIS "Thank you, Ms. Palmer. Are there any questions for the speaker?"

SUSAN MCCOY "I am a health professional. I am a medical technologist. That means I have spent a lot of time in the clinical lab, working with people's things that I don't really don't care to talk about. I have been out of that profession for about a year now. I am really concerned about the aerosol that can be expressed from a transfer station. I am having a really hard time believing that you will not be able to contain everything at this transfer station. It just doesn't make any sense, first of all. That is the brass of it.

The other thing I would like to mention is that in the nursing home industry, there is a very hard time placing people that have aerosol-related diseases. There is also a hard time placing people that have to have mechanical ventilation. Granted, that is not something that is going to affect us in that area immediately, but it could lead to that. If you are a COPDer, if you have diabetes, if you have an immune deficiency disorder, if your system is immuno-compromised, if you get Strep and you don't recover from it, something like that can happen. This is something that needs to be thought about. The environmental issues are something that I am also concerned about. I have lived in rural communities for over 20 years. I am originally from a very large city down in Texas, and I really like the rural area. I like being able to go out into my back yard and see a squirrel. I don't like going out into my back yard and seeing a large rat. The last thing I want to say is that I survived the May 3 tornado. I have one home in the dump already."

JOHN MCQUILLAN "I live at 4729 Bennett. I have a business at 4710 South Emporia. The traffic has already been mentioned. Needless to say, we can't get our customers out onto 47th Street, let alone getting out of my house onto 47th Street. I have lived in that area since 1979, and I have just watched the whole area develop. I have a pool in my back yard, which I had to scrape 2 inches of dirt out of for a year and a half when they were building the soccer field behind my house.

I picked up beer bottles, trash bags and all kind of snack wrappers that are in my yard now. I love to see all of this stuff come in there, and it is just going to keep coming. It will just flow on down to the south end. We've got Hoover's Orchard, we had the city dump, we have Plainview, and Oaklawn. They are deteriorating our area. That is all I can say. I would like to sell my business and my home down there for what they are doing to the south end of our town. I would like to let you have you have that property that I am paying over \$1800 every three months for taxes on. If you want to tax my land, don't put trash in it."

BILLY GRAY "I have been developing the property at Hoover and MacArthur Road for the last 16 years. I live at 204 N. Woodchuck. I am going to read a letter that I wrote to the Sedgwick County Commissioners: 'I am writing in regards to the proposed zoning change at 55th South and Hoover Road. It is my understanding that the county proposed to construct a waste transfer station at this location. For the past 16 years, I have been developing land and building new homes on the north, west, and southeast corner of MacArthur Road and Hoover Road. I have completed over 600 homes in this area. To add to that, I plan to do another 600 to 800 homes in the same area. When I first started building in this area, the Oatville School was close to being closed down because of the lack of students. Last year, they completed a new addition to the school to accommodate the increase of students due to the homes that I have built in the area.

I have 3 major concerns: 1. The increased traffic—specifically the large trash trucks running up and down Hoover Road between K-42 and 55th Street South to the transfer station. This is already a heavily congested traffic area during the shift change of Cessna, Case, Learjet and Boeing. There is also Vulcan Chemicals and DeBruce Grain. During harvest, traffic is further burdened with grain trucks coming back and forth from DeBruce Grain, and also they block the intersection at 55th and Hoover for long periods of time. 2. This is that this station will be open to the public. I am sure that you have been to Brooks Landfill and have seen the items just left, not quite making it all the way there...like 'oops! It fell off the back of my truck', or the items that are turned back because this transfer station doesn't take the refuge from a building that has been torn down or something like that, or a guy tears his shed down in back yard and he hauls it there and he can't dump it there because this is not the typical station for that. That ends up in the road or in the ditch a mile or two away from this because he doesn't want to take it to the location that he is supposed to. 3. There is still land that could be developed in this area, whether by myself or by somebody else. From a marketing viewpoint, this is not the type of an amenity people are looking for in their neighborhood. Thank you."

MARTY NEVIL "I live in one of those houses that Billy Gray built. First of all, I would like to continue on on some of the point that Mr. Mills tried to make earlier. The length of time the subject property has remained vacant as zoned. The

subject property has never been vacant or without a viable permitted use. The present landowner and prior owners of this property have always used it for an agricultural purpose. The Waco Township Neighborhood Association has provided aerial photographs of the subject property, showing that the property has been actively used for agricultural production since the 1950s.

The relative gain to the public health, safety and welfare as compared to the loss in value, or the hardship imposed upon the applicant. The applicant does not own the property, but only has an option to purchase it. Therefore, the applicant will sustain no loss in value to the property. The applicant will sustain no hardship, as the applicant does not own the property. The applicant is free to locate a more suitable property for this use anywhere else in the county he desires. The present value of the subject property will not be diminished. There will be no gain to the public health by allowing the zone change or Conditional Use. The transfer station is not needed. Presently two locations have already been approved for transfer stations in the county.

I prepared no comments and most everyone else has covered the points that I was concerned about. There are just a couple of things that I would like to say. I would like for all of you to see my daughter that I brought with me here today and see her face now and make the right decision, rather than to see her face or someone else's face later on the front page of the paper when there has been an accident between a trash truck and a school bus.

The other thing is, I am one of those people that is generally apathetic in this situation. Well, you woke me up. I was a sleeping dog. I am barking now and I am going to keep barking. Thank you."

DENNIS CLOUGH "I live at 319 West Lockwood. I want to recognize two realities. The first reality is that I do understand that as long as we are alive we are going to make trash, and that trash has to go somewhere. There is going to be some trash transfer station or dump or incinerator or whatever somewhere. But the second reality is that before I moved here 5 years ago, I lived in an area where they did use trash transfer stations. My experience with that has been that the closer you get to the trash transfer station, the more you realize that it is there. You know that you are coming closer because the trash is along the roads, it is along the ditches, it is in the fencerows and other things. It is not because of the operation of the transfer station itself. You can have the most sanitary transfer station available, but it is due to the people who are bringing the trash in and whether or not they follow regulations.

We have said a lot about the routes and the roads and the people who are proposing the transfer station have promised us a particular route that they will take that does not go by any school, but still we have also heard, from the testimony of the people who work for the county that the trucks can drive on any road they want to drive on, so this is a self-regulating promise. There are no guarantees that they are going to take those particular routes. Another thing that I heard that I wondered about was when they were giving the presentation of the building of the transfer station; they were talking about their fire control. All they mentioned was fire extinguishers for their fire control. There wasn't any mention of any kind of sprinkler system, just simply the mention of 'well, we have fire extinguishers, and fire extinguishers on each of the vehicles'. I would be disturbed about that if that was all they had in case a fire would break out in a transfer station.

Finally, it has been my experience that at the transfer station, it is not simply a matter of a truck pulling through, being loaded and immediately pulling out and going to the dump or to the sanitary landfill, wherever that might be. But it has been my experience that a transfer station operates in a way that trailers are brought in, loaded up, trailers are taken out onto the lot and dropped on the lot where they are, where they may sit for a while. So it is not that we are always going to have trash that is immediately going to be processed and taken out to the landfill, but we are going to have trash that is going to be sitting in trailers on the lot at the transfer station. Thank you very much."

MICHAELIS "Thank you, sir. Any questions of the speaker?"

JAMES CHESSHER "Hello. I live at 5811 West 40 Street South in Wichita. I lived, for 8 years, within 2 miles of the Brooks Landfill. I drove daily through the endless trash that was blown across three fences, across that highway and this organization plans only one, not to mention the illegal dumping that I suspect is going happen from the residents, people who go through there personally. The representative from Burns McDonnell has said that they have a viable business plan. I believe they probably do because they do plan on making money on this. I do also believe that they do not have a viable social plan. This place is going to go downhill. We are going to reap the benefits of the endless trash that is going to go through this area. I do vote. I have worked elections in the past at the Waco Township Hall and it is too close to my home. I ask that you all vote against it as well. Thank you."

BOB CARROLL "I live at 1524 Boxwood Lane in Haysville. I am kind of concerned about the packet of information that you received. You have been hearing about the traffic and stuff, but I kind of get a little bothered when I see a picture being painted. They are painting this as an existing industrial area. Yes, we have Vulcan Chemical over there, but Vulcan Chemical has turned out to be a pretty good neighbor to the City of Haysville. We don't have 130 Vulcan trucks per day going through, and I think because of the low volume of Vulcan trucks, there is a concern.

Of course, I have two daughters who go to Campus High School. They are teenaged drivers, but there are not that many Vulcan trucks that go through. From the study, they are painting the picture that 'okay, we've got a lot of trucks already going through, so this isn't going to hurt anything'. Okay, let's look at this equation. Trash trucks and chemical trucks. That can't be two things that come together in a good situation. Especially when you are talking about 130 trash trucks per day along with chemical trucks. That is aside from all of the school traffic.

Another problem I have is that the County Engineer mentioned about the roads. I know the City of Haysville has a certain standard for its roads, curb and gutter. If we do a street where there is going to be a lot of truck traffic, it requires that the base be worked up to an extra depth and they put an extra layer of asphalt on it. I believe the City of Wichita has a similar standard and that is for a commercial road. What we are talking about here, and I want to make it clear is ribbon asphalt. Sure, it may meet the minimum county qualifications, but it has always been my understanding that the reason for curb and gutter is that it kind of traps the asphalt. As you get truck traffic, the asphalt flattens and smoothes out. So to think that there is not going to be additional cost down the road because you've got a two lane roads, and it looks like the petitioner is saying 'okay, we are going to pay for some intersection improvements'. Well, that is good for that intersection right there. People have described that when you get to 55th and Meridian that at 3:00 when Campus is letting out, I want you to just stop for a second and picture the hundreds of students coming out of Campus and traffic backed up, like the one gentleman said, to Seneca, and backing up north on Meridian. Now, let's add to that at least 25 trash trucks that are coming through there. Okay, now, just think about that for a second. Not a pretty situation.

Then, along comes chemical trucks. So I don't think we can look at these things in isolation. Another concern that I have is that as a taxpayer, I am kind of concerned because it is my understanding that when Wichita was annexing down towards 55th Street, and you know Campus became an issue, the City of Haysville entered into an agreement with Wichita about the island annexation of Campus with the understanding that 'oh, if they ever did any road improvements on 55th Street, the City would probably be obligated to help out'. Well, it is one of those things that has happened within the last couple of years and you didn't think it was a big deal. You think that some day they will improve the streets. Well, guess what? My Haysville tax dollars, all of a sudden, I could see it going real fast now to them having to widen 55th Street and the City of Haysville having to chip in to pay for that effort. So as a taxpayer, I am a little concerned about that.

So I just wanted to make sure that you get the proper prospective of chemical trucks, trash trucks, ribbon asphalt and one last point. They are talking about grain trucks. This area is flooded with them. Well, if you look at the map up there, the residents are east of this area and the agricultural areas are west. So I think they are kind of painting a distorted picture saying that we have chemical and farm trucks going to this area when the farm trucks are kind of south and west and the residents are east and there is a very low volume of chemical trucks. So I just hope that you consider all of those factors and put all of the pieces together. Thank you."

MICHAELIS "Thank you, sir. Are there any questions of the speaker?"

STEVE STOUT "I live at 3831 Brumett. I have lived there for 11 years. We have pretty much talked about every thing as far as the social issues, the health risks, and the rodents and everything like that, and traffic. But I think you asked a question about the routes. To get to where they want to go from I-35, you either have the 71st Street exit in Haysville, and I don't think Haysville will allow all of those trash trucks going straight down 71st Street, so that rules that one out.

The second one is 47th and pretty close to Broadway. There you have all of your restaurants. I seriously doubt that you would have all of those trash trucks and semi-tractor trailers hauling garbage going down those streets and it is a round-about way of getting there. So the last one is I-35 and K-42. This is the same exit that Cessna uses, people coming from the airport use, Learjet, Vulcan, and Case. So you have not only the homeowners in this area being affected by this, now the whole taxpayers that work at these businesses will have to sit in traffic behind these trash trucks, and tractor /trailers. And you know as well as I do that they leak and you will have that running down the pavement, and every car that drives through there is going to pick that up and eventually it is going to get in the air and spreading everywhere. Eventually everybody will take it to their own homes. That is just about all I have."

MICHAELIS "Any questions of the speaker? Thank you sir. Okay, Mr. Borst, you have two minutes of rebuttal time. Is the applicant still here? Do you wish the two minutes?"

BORST "Yes. We would just like to thank the Commission for their attention to this issue and I would like to also thank the opposition to this project for the respectful way they presented their information.

I wanted to just hit a couple of quick points in rebuttal. There will be a substantial amount of revenue generated by this facility by the county, by a tipping fee and by taxes and by employee taxes that are generated by the people working there. The transfer station is somewhat in a centrally located area, which is on the south portion of the town, as covered in your staff report there. It provides a balanced option for the consumer. I think, since traffic seems to be the biggest issue that was discussed, I think it is really important that we bear in mind the exact number of vehicles we are talking about. It is 15 semi trailers and 50 trash trucks that make multiple trips per day to add up to the 130 vehicle trips per day.

We are talking about building a top-notch, state-of-the-art facility that will be run exceptionally well and be a credit to the community. I would like to point out that within 2 city blocks of Rodeo Drive in Beverly Hills, California, there is transfer station that operates and it is very difficult to know that it is even in the community. That is the caliber of transfer station we are talking about building and operating here. We would appreciate your approval. Thanks."

MICHAELIS "Thank you, sir. At this point in time, we are going to bring it back to the Commission. I would like to reiterate once again that you are going to hear some thing that you probably won't like, but you may hear some things you do like. Be respectful of that, too. We do have the option of going in executive session if we need to. We don't want to do that, we want you to hear the discussion, so let's try to keep this orderly.

I think what we are going to do at this time is to give everyone on the Commission an opportunity to state their position and what their thoughts are before we really get into discussion. In doing that, I am going to take the privilege of the chair and be the first guinea pig.

This is one of those things that is tough for a lot of different reasons. When you get into land use issues, nobody is ever really for it—nobody likes to see something come in. I think that the biggest thing in this whole thing has been the testimony of the fact of do we even need it? If we have one that currently is underway that can handle all of the capacity that we already have, and we have another one that is being constructed, and between those two, and the construction and demolition waste areas that are opening, so a lot of the stuff you see going to the landfill now will be going to a separate facility, so with that in mind, I am a little reluctant to jump into another one until we know how the two that we have really work and give an opportunity for people to see how they do work and what effect they do have.

The other thing is obviously the location issue. Right off of the top of my head, I could think of 21st and I-235, where they are tearing down the old Coastal station that might be an excellent location. That is right in the middle of an industrial area and it seems like part of our Comprehensive Plan is to try to take what we can like operations and put them by like operations. Since we already have one going at Brooks and we already have one going by Haysville, personally, I think that is probably adequate at this point in time. Those, to me, are the main issues that came up.

I appreciate all of you coming. I know that some of you had to take off work in order to do that. That obviously shows your interest in this. You have been very respectful and very courteous and have made very good presentations. On behalf of the Commission, I would like to thank you for that and for the time. At this point in time, I think we will start with Dr. Platt and then go to Mr. Lopez, and just kind of rotate down the line and let everybody have their say."

PLATT "I agree with you that this is not a easy case to quickly arrive at a conclusion for. I think the comments that you made are extremely important. It is always difficult in a case like this to separate out the land use issues related to our Comprehensive Plan and our zoning guidelines from the very standard political issues of 'not in my back yard'. Of course, it is our job to look at the first side of the picture—the technical side of what is being proposed here, and it belongs to the County Commission to evaluate the political issues, ultimately, of who is in favor and who is opposed to something. That is an element that I have been wrestling with as I listened to many of the comments and tried, in my own mind, decide what really should be said at the County Commission meeting, and what has an impact, as far as I am concerned, here.

If this proposal were another mile to the west, it might be much easier for me to make a decision on it. As it is, it certainly seems to me to be raising some issues related to other kinds of activity that present problems. Certainly we like to consolidate items like a transfer station along with the industrial areas that we have here, Vulcan Chemical, the grain elevator, the electric station. That is a very good match-up. So I am going to say that it has some very positive elements that go in its favor. On the other hand, it certainly moves in the direction of perhaps being involved with a lot of other city problems.

Traffic is something that we have to be concerned with, but certainly if we were looking at a proposed subdivision for this area, we would be looking at a lot more trips per day. We have heard arguments that this land should be left agricultural; we have heard arguments that by approving this, we would be stopping its development. Of course, those are circular arguments that don't lead us anyplace. Anyway, those are the issues that are going around in my mind, and I am interested in hearing comments from the rest of the Commission."

LOPEZ "The issue by the County staff still hasn't clarified or made clear why we would need a third transfer station when we have excess capacity now. I think that is a question that the staff and the Commissioners need to answer for the residents of the County. And to the residents of the County, you need to have it clarified for you that all we would do is make a recommendation. The final decision is with your elected representative. You have two strikes going for you right now with the City of Haysville against it and the Haysville Planning Commission against it, but from my prospective, I haven't heard any reason for justifying it yet when we have plenty of excess capacity now."

MCKAY "I came in here undecided and I think I am still sitting here undecided. I am very familiar with this area of town, I was just down there this morning, and I was down there yesterday. I feel like Dr. Platt said, because of the industrial area that is around it, that it is probably a good location for it because it does blend in. I do have a real concern about the distance from any major thoroughfare or highway system to get the trash from the plant to Topeka or wherever it is going to go. So, that is my major concern, the traffic distance to a major highway."

HENTZEN "I didn't ask to speak. (Laughter) But, first of all, I think we have had some very good information laid down to us today. I would submit that nobody suggested a better place. They just basically said 'not in my back yard'. I wish somebody would have helped us with that. Secondly, on the signs that say 'I vote' and 'we vote' that they brought with them, I want to tell you that we are volunteers, trying to bring some sense to these type of situations. So I am just saying to you that someone there has conveyed the message that it will be up to the County Commissioners whether this thing flies or not. So I think what John said about getting to a decent way to get in and out of down there, even after it is collected, it has to get in a vehicle and go to Topeka.

I will tell you something else that is going through my mind. If it is turned down and it is proposed to go in somewhere else, there is going to be the same number of people up here saying 'not in my back yard'. So I ask you to consider, where do you want us to put your trash? Like I said, I heard some very good messages today. Thank you."

WARREN "I will just reiterate a little bit what has already been said. This is one of the toughest decisions we have had since I have been on this board. Certainly this is the best-organized opposition that I have ever seen, and the biggest opposition I have ever seen. I would like to say that I agree with much of what has been said here today. It has influenced me; there is no doubt about that. I am very sensitive to the position that you people have taken. I am very respectful of those positions and I certainly want to compliment you for the efforts of getting out like you have done.

This whole item of waste disposal is a hotly debated item, and has been for the last 2 or 3 years now. Nobody wants a transfer station, nobody wants trash. That is something that we can all agree on. But the decision has been made that we are not going to have landfills in Sedgwick County. That decision wasn't made by any of us in this room. So what that leaves us with is these transfer stations. I do believe that easy accessibility to these transfer stations can ultimately mean a cleaner environment in the County. I think that the record will show that when this same issue came up in my community, Derby, that I supported a transfer station out there, and I did so knowing, I was fully aware that we were going to have trash trucks running down through our main street. I heard somebody suggest a minute ago that they wouldn't let them come through Haysville—we know that they are going to come down K-15, right through the middle of our town.

But I think it is important that we have these stations, and I will give you an example. Webb Road east of Derby, between 95th and 103rd Street gets about 15 truckloads of trash dumped in the ditches every year. Now, it is my opinion that these violators who illegally dump this trash, if they have a source that was convenient with some kind of a nominal fee would probably use that source as opposed to the possibility of a \$500 fine for dumping it in a ditch. I think, when the choice and the option is theirs, they will use that option to take their trash to a proper place. I think it is important that we make that convenient. For example, for the last several years, it is a 37 mile round trip to Brooks Landfill. I can assure you that there are a lot of people that won't make that 37-mile trip, but will make the trip to Webb Road.

I think, in addition to this, let I said, I have gone on record as supporting that one in Derby because I thought it was essential out there. I do think we have some legal questions here. I think this applicant, as I can determine it, and this is always subject to question and opinion, but I think he has met the necessary qualifications that he has applied for, and I think that is why we have staff's recommendation of approval. I don't think we would have that staff recommendation of approval if these conditions had not been met. So that gets you into the legal side of, and that we won't get into because others will have to. That is all I have to say."

JOHNSON "I am going to repeat some stuff. I lived in Haysville for a number of years, up until about 6 years ago, so I am very familiar with the area. I have been on this Commission for I think 6 years, and I think this is probably the toughest case I have ever dealt with because I know a lot of the people in the audience. But I think that it has already been stated that it is a land-use deal. Yeah, I wish we didn't have to have one anywhere, but as Mr. Hentzen said, we are going to have one and nobody wants it in their back yard.

I will compliment the group. This is the largest group, and the largest organized, and I guess if anybody is going to run for election, I would almost want this group to run it for me, because they are very well organized. You handled yourselves very well. We have had some groups in here a whole lot less than you that we had a hard time keeping order on. But since this is a land-use deal and we only get to make a recommendation and some of the people we make happy and some we make mad. As the rest of the Commission said, the County Commissioners are going to get to make this decision. I think the reason that they are going to get to make it is that they have already established that there is going to be no landfills in Sedgwick County and that we are going to have these transfer stations.

I am for free enterprise. I don't want too many of them, but I also want enough of them that the price stays competitive and I feel like if we were just building capacity, I think the price of the trash service might be slightly different than if we overbuild it slightly. What that magic number is, I don't know, but it goes back to a land-use number. It is by industrial property. I am concerned a little bit about the traffic, but I think if you went straight up Hoover to K-42, it is almost the same distance that it is from this site to Campus High School. Living in Haysville for 20 years, I saw lots of Vulcan trucks, lots of grain haulers that drove right through the City of Haysville day in and day out, 24 hours a day. There were lots of people making comments about accidents—I don't care where we put them or what we do, I don't want anybody being in an accident with anything, so that is kind of beside the point. I know that you are talking on emotional stuff, and I would be too, if I was living near, but we have to look on a land-use thing. It is tough, but it is close to industrial property."

GAROFALO "I went down and spent some time in the area the other day, and I would like to make the comment that Mr. Platt mentioned that if everything was going to be confined to that particular area, it appears to be a really good location for something like that. But we know that it isn't because of all of the traffic that is going to be proceeding through the areas, to the north, south, east and west. The local trash trucks are going to be running in and out and then you have the big semis that are going to be taking the stuff off to Topeka. So I am real concerned about the traffic situation, the safety situation, the matter of debris being scattered by private individuals who will be driving their pick-up trucks and what not along the way.

I am also not totally convinced that, as Commissioner Lopez mentioned, that as the Chair mentioned, that we really know that we have a need for a third transfer station at this point. I think that is a significant part of the issue. Do we really need it?

I also wanted to mention that 2, 3 or 4 speakers got up and spoke as though they wanted to argue the whole trash issue again. We on this Commission, as I recall, pretty much, I think maybe unanimously at the time, were opposed to transferring our trash away. We were in favor of a landfill as the City had suggested. It was our County Commissioners who decided to take it over and came up with this scheme of transferring stuff all over the place. Instead of having one

landfill, we will now, in effect, have three or four places maybe where trash is going to be hauled to and have truck traffic all over the place.

So I am somewhat leaning against approving this particular station at this time, but as Commissioner Johnson mentioned, we are possibly going to have more of these things, and they have to go somewhere. We do have to get rid of our trash. Unless you can all get out there and convince your County Commissioners to change their minds, which may be a little bit late now at this point in time. That is all I have."

WARNER "I did take the time and made the effort to go down and see this location. I drove around it a couple of times within the mile sections around it. My first impression was, with the trees and Vulcan and DeBruce and everything else, that this was a good location for this purpose. I think I have had a change of thought after reading the information that we have been presented from staff and also the stuff that you people have supplied us. I am concerned with the schools and the traffic and the trash. I think if this location were closer to I-35 or some major highway, I would probably be in favor of it. But as it is now, I think it is too far away from everything, even though it is adjacent to some industrial property. So at this point in time, I am leaning toward denying it at this location."

COULTER "I am a new member on the Commission; this is my first meeting. When I was talking to Marvin last week, I said 'this is going to be fun'. I appreciate everybody coming out. I have been on the outside, where you are standing now, and I appreciate you taking the time, effort and energy to be here. We are going on 3 hours and I am getting kind of stiff from sitting, and I am sure you are getting a little sore from standing. So I do appreciate your being here, and I know your commitment to your area. My office is down on 47th Street and I have some of the same concerns that you have about traffic and various issues of our south Wichita area.

I think one of the things I have looked at the most was do we need this? At this point, it sounds like this might be an over-built issue and we might not need it. I hope that we can, through the Commissioners, look at some better ways of dealing with trash, with possibly some recycling down the road. I know we don't have much input on that, but I think we all need to be concerned citizens and understand what we can do with our trash and what we should be doing about it.

The safety of the children around the schools is a big issue. I don't want to see anybody's child on the front page or on the back pages where the obituaries are, or even being hurt. That's going to be worse. And the possible damage to the roads, I am not sure about the road base underneath the roads if they are as good as highways. I think that is about all I have to say. I may be looking for a speed-reading course after this because there is a lot to go through."

OSBORNE-HOWES "I came to this meeting with my mind not made up at all. This, obviously, is a very difficult issue, which of course, to reiterate what a few have said, including Mr. Garofalo, we wouldn't be dealing with this if the County Commission had not decided that we would not have a sanitary landfill but have a variety of transfer station. So perhaps at some point, they need to perhaps re-look at this.

I looked at this site, too, and I felt that it wasn't the worst of sites and it wasn't the best of sites. I saw strength and weaknesses in the sites. It is adjacent to some industrial zoning, and I thought 'well, this needs to go somewhere'. My concerns are that I thought when we first said we were going to be looking at transfer stations that they would be immediately adjacent to highways and not really be driving through towns or on country roads or what have you, so that is one of my concerns. Another is that this is a low-lying piece of property, and as many of you know, I do have concerns about that, particularly anything that is in the basin of the Cowskin Creek. So I guess, at this point, I am leaning against it."

MARNELL "I assume that we will still have some time to visit with staff about some of these issues. I still have some unanswered questions and I haven't made up my mind yet. I really appreciate Dr. Platt's comments. I do think that we are dealing with a land issue and not a political issue at this Commission. Someone is going to have to make the decision somewhere, but in terms of the land use, I also took the time to go down, not only to the site, but to drive in several miles in each direction. The industrial uses that are heavy near the area have had an impact on me.

I do respectfully disagree with a couple of comments made from the Commission up here that is trying to gauge the commercial viability of ventures. I don't think that is the place of this Commission to do. I don't think we should be picking whether it is a loser in the commercial marketplace. I think that is wrong. I think that is for the private enterprise to do. I think what our charge is, is this an appropriate use for this land? I think that, while I may agree, to some extent, that there may be more of them than would have possibly be necessary to do it, we don't make the determination of whether or not a particular commercial zoning is going to be okay for a 7-11 because we think there is a Quik-Trip five blocks away, so therefore there are too many convenience stores. I think we should stay out of those areas.

There were some comments that I think are very appropriate having to do with the environmental impact and the endangered species, but that again, doesn't really fall to us. Those have to be permitted by the proper state authorities. They will either get the permit that it is an appropriate use, or they won't. So what we are dealing with comes back to the fundamental land issue and I think I will probably vote for it, but I still have some questions I need answered."

MICHAELIS "Thank you, Mr. Marnell. For the information of everyone in the audience, the public hearing part of this is closed. The only way any of you can respond to any further comments is if a particular Commissioner asks that of you. So please keep that in mind. At this time, I would open it up to the Commission. We can either make a motion and have further discussion, or ask questions of staff. What is the pleasure?"

MARNELL "I have a couple of questions of the applicant. I believe that you stated that the capacity is 600 tons per day. What is that based on? It is based on how many hours a day? How many day per week?"

COTTER "It is based on a couple of things. I guess the primary basis that a transfer station's size is based on the outside dimensions. One that is roughly this size would be in that range. Of course, they vary. Different operators will put different amounts of trash through the same size transfer station, but usually one that is in the 80 to 100 foot outside dimension size is considered to be a 500 to 600 ton per day facility."

MARNELL "This may also just come to a practical basis of trash haulers probably are not going to be coming out throughout the middle of the night to empty, but I would assume that if it went 24 hours per day, it could certainly do more than if it went 8:00 to 5:00, and if it was going 8:00 to 5:00 and it was doing 600, it would be a larger facility, but its not going to take up any more space."

COTTER "Yeah, and I want to emphasize that we have no intention of running this thing 24 hours per day. That is just a component of the permit and our operation hours are going to be concise, 6:00 to 6:00."

MARNELL "The other question I have if you is on trailers that are used to transport to the landfill, are those open or closed trailers?"

COTTER "Closed."

MARNELL "Thank you."

OSBORNE-HOWES "I would like to ask a couple of questions while you are up here. Do you do any recycling? When they are going through the trash, do they separate out and recycle?"

COTTER "There is going to be an effort to recycle cardboard as part of this. That is something that we hope to bring on board in the future. I guess it becomes difficult to recycle aluminum and a whole bunch of different components of trash, but as recycling becomes more viable, that is certainly something that we would consider."

OSBORNE-HOWES "And you could do that at this facility?"

COTTER "We could do that by maybe possibly adding on to the building, or to some limited degree within the building."

OSBORNE-HOWES "Have you done calculations? My calculations show that you would have a truck either entering or leaving about every 4 minutes if you were open from 6:00 to 6:00. Is that about right?"

COTTER "That sounds a little too frequent to me. There will be some areas where maybe there will be more coming in than others just because they start their route pick ups in the morning."

OSBORNE-HOWES "I just figured over a 12-hour period, 130 trips per day, and someone said that was minimum, so that is how I came up with entering or leaving once every 3-1/2 to 4 minutes."

COTTER "It is about 11 trips per hour, whatever that would break down to."

OSBORNE-HOWES "How many trips per hour?"

COTTER "About 11, I think. One hundred thirty divided by 12 hours. I am doing the math in my head."

OSBORNE-HOWES "Okay, thanks. "

MICHAELIS "Are there any further questions of the applicant? Okay, thank you, Mr. Cotter. Anybody else?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. The area is a mix of "LI" Limited Industrial, "GI" General Industrial, "LC" Limited Commercial and "SF-20" Single-family Residential. Uses range from agricultural, single-family residences, maintenance buildings, industrial park and power generation pond. The area to the west is primarily industrial with residential uses located to the east of Hoover. Heavy truck traffic exists today in the area due to existing industrial development. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-20" and could be developed for permitted uses. However, proximity of this site to industrial zoning and existing industrial uses makes it less desirable for residential development. Extent to which removal of the restrictions will detrimentally affect nearby property: Anticipated detrimental impacts will be mitigated by the setbacks, landscape buffers, minimum lot size requirements and other development and operational requirements. Projected traffic volume will increase, but projected increases can be addressed by required improvements. Conformance of the requested change to the adopted or recognized plans and

policies: The Comprehensive Plan identifies this area as appropriate for rural uses. The treatment of this use in the Zoning Code suggests it would be appropriate in some rural as well as industrial settings. The County's Solid Waste Management Plan relies upon the use of transfer stations to facilitate the removal of municipal solid waste. The County's Solid Waste Committee reviewed this application and found it to be consistent with the County's regulations for transfer stations. Impact of the proposed development on community facilities: The site will generate additional traffic, but the applicant will be required to fund road improvements which should address potential traffic impacts. No municipal water or sewer services are available, and these services should not be impacted by this development. Relative gain to the public health, safety and welfare: With the imminent closing of Brooks Landfill, it makes the establishment of a new means of waste disposal imperative; Sedgwick County's plan for solid waste management mandates the utilization of transfer stations; there is only one other transfer station currently under construction with one other location approved for a transfer station. It is important for the community to have a choice of facilities in order to maintain a competitive balance between service providers. Since it also appears that the ultimate disposal locations are different for the two previously approved stations and this proposed station, approval of this request would provide additional security that there would likely always be a landfill to which the community's trash could be hauled. Finally, with a transfer station under construction in the north part of the county, a site in the southwest part of the county will provide increased convenience and reduce total vehicle miles traveled.) I move that we recommend to the governing body that the request for the zone change and the Conditional Use for the transfer station be denied.

LOPEZ moved, **WARNER** seconded the motion.

KROUT "I think the Planning Commission has made an excellent record, no matter what your decision is, so I don't think you have to go back through the findings."

MICHAELIS "Is there any discussion? If not, let's do a roll call vote. Just to make sure, a yes vote means you are voting against the application."

VOTE ON THE MOTION: The motion carried with 9 votes in favor (Michaelis, Osborne-Howes, Warner, McKay, Platt, Coulter, Garofalo, Hentzen and Lopez) and 3 in opposition (Warren, Johnson and Marnell).

KROUT "It is the option of the applicant to continue this case on to the County Commission unless they formally withdraw it. We would expect that they would be going to the County Commission. In talking to the County Commission, the likely date for that meeting will be March 28. The County Commission does usually open up their meeting and allow similar discussion for this, so it is open to the public. Although, their meeting room is even smaller than this room.

Because of the Planning Commission's decision, it will require 4 votes of the County Commission to override the Planning Commission's recommendation on their first consideration of this. It would need to have those votes to override the Planning Commission's recommendation. If they don't get it, they could send it back to the Planning Commission for further consideration, and if they heard it a second time, they could approve it by 3 votes. There is also the possibility that nearby property owners can protest petitions and if those are sufficient, that would require 4 votes of the County Commission regardless of the Planning Commission's vote.

If you have any other questions, contact the Planning Department office. Dale Miller is the staff planner on this. He will be glad to answer your questions."

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5. **ZON2001-00007** – Huntington Corp. (Keith Anderson) requests zone change from "GC" General Commercial from "LC" Limited Commercial on property described as:

The North 190 feet of Lot 1, Block A, J. Rogers Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Central and east of the Wichita-Valley Center Floodway.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The application area is located just east of the Wichita-Valley Center Floodway and south of Central Avenue, and is zoned "LC" Limited Commercial. The site is .6 acre in size and is a portion of a platted lot (Lot 1, Block A, J. Rogers Addition). The applicant is seeking "GC" General Commercial zoning in order to locate a "vehicle repair,

general" (auto body repair) use at this location. The applicant has lost his lease at his current location on West Street, and wants to move his business to a location that is within his current market area.

Access to the site would be off of Central as the site is blocked in on three sides by a self-service storage warehouse and the Wichita-Valley Center Floodway.

Surrounding zoning is "LC" Limited Commercial, "SF-6" Single-family Residential, "GO" General Office and "GC" General Commercial. Surrounding land uses include: retail sales, office, self-service storage warehousing and the Wichita-Valley Center Floodway.

CASE HISTORY: In 1983 the site was rezoned to "LC" Limited Commercial. In 1987 a use exception was approved for a car wash, however that use exception had a "null and void" clause that became effective if the project had not commenced within one year's time. The J. Rogers Addition was platted in 1993.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial; retail sales, office
SOUTH: "GC" General Commercial; self-service storage warehouse
EAST: "LC" Limited Commercial and CU; self-service storage warehouse
WEST: "SF-6" Single-family Residential; Wichita-Valley Center floodway

PUBLIC SERVICES: Central Avenue is a 4-lane arterial at this location carrying between 24,000 and 31,000 vehicles on an average day. This segment of Central Avenue, between the floodway bridge and I-235, is scheduled to be improved to a 6-lane facility by 2001. The lot has platted access control for the first 60 feet east of the west lot line. Municipal sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: Strategy III.B5 of the Wichita-Sedgwick County Comprehensive Plan states that it is appropriate to confine highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar uses (e.g. Kellogg, Broadway and the CBD fringe). The plan map depicts this site as appropriate for commercial uses, not differentiating between different types of commercial uses.

RECOMMENDATION: Auto body work and paint shops have traditionally been separated from more limited repair shops in the zoning code, because of their tendency to generate more noise, odors and outside storage. However, the location of this site is unique in terms of its buffering from residential uses. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions that are intended to preserve the appearance of this commercial corridor and this site, which serves as the "gateway" between two sections of the city.

- A. Permitted uses are those permitted by right in the "LC" Limited Commercial district plus "vehicle repair, general".
- B. All vehicle storage must be located behind the front building line of the principal structure and screened from ground view from Central and from adjoining and adjacent properties.
- C. All parking and storage areas shall be paved with concrete, asphalt or asphaltic concrete.
- D. No off-site or portable shall be permitted.
- E. The development of this property shall proceed in accordance with the conditions listed above, any substantial deviation as determined by the Zoning Administrator and the Director of Planning shall constitute a violation of the building permit authorizing construction of the proposed development.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding zoning is "LC" Limited Commercial, "SF-6" Single-family Residential, "GO" General Office and "GC" General Commercial. Surrounding land uses include: retail sales, office, self-service storage warehousing and the Wichita-Valley Center Floodway. The character of the area is a mix of uses, though primarily retail and convenience services.
2. The suitability of the subject property for the uses to which it has been restricted. The property is currently zoned "LC" Limited Commercial. The "LC" district permits a wide range of retail sales uses, however the small-lot size (.6 acre), and proximity to the "Big Ditch" probably limit potential retail sales users.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The suggested conditions contained in the Protective Overlay, the natural buffer provided by the floodway and the fencing already in place at the self storage facility, which includes outdoor storage, help to mitigate anticipated detrimental affects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Strategy III.B5 of the Wichita-Sedgwick County Comprehensive Plan states that it is appropriate to confine highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar uses (e.g. Kellogg, Broadway and the CBD fringe). The plan map depicts this site as appropriate for commercial uses. While this use at this location is not in conformance with the recommended plan, this site is somewhat unusual as discussed in No. 3 above.
5. Impact of the proposed development on community facilities: None identified.

MILLER "This will be the Reader's Digest version of this request. It is a request for General Commercial zoning on a site that is already zoned Limited Commercial. It is located just south of Central and east of the Wichita-Valley Center Floodway, or Big Ditch. The applicant is seeking this request in that he needs to move his vehicle repair shop from its present location, which I think is over on West Street. He would like to move it to someplace that is within his existing market area. He has found this location. The area immediately around it is part of a self-storage warehouse on the east and south. Even stuff across the street to the north is a combination of office and retail convenience like tanning salons and insurance offices and that sort of thing. Then there is the Big Ditch there to the west. Staff is recommending approval of this request, subject to the 5 conditions found on Page 3 in terms of the Protective Overlay. The basis for recommendation for approval is found on Pages 3 and 4. I will run through the slides if anybody wants to see them."

MICHAELIS "Does anybody want to see the slides? No? Okay."

MARNELL "Dale, what is the access out of that piece of property? I couldn't figure out where it would go."

MILLER "It will strictly be on Central. There is access control for the first 60 feet, I believe it is. This is a platted lot, so they will have access, but the only point of access will be to Central."

MICHAELIS "Are there any other questions of staff?"

GAROFALO "Dale, did the DAB look at this?"

MILLER "No. The way the DABs are functioning now, they don't meet for your second meeting, so if anyone has an issue and it needs to be DABed, it would come in between this meeting and the City Council meeting."

MICHAELIS "Can we hear from the applicant?"

TIM AUSTIN "I am with Austin Miller, agent for the applicant. We are in agreement with staff's comments. The only thing I would make note of is that there are other heavier auto uses like a little bit further east some repair shops and some tire sales and things of that nature. I would be happy to answer any questions."

MICHAELIS "Are there any questions of the applicant? Thank you, Mr. Austin. Is there anyone in the audience to speak in favor of this application? Is there anyone in the audience to speak in opposition to this application? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Surrounding zoning is "LC" Limited Commercial, "SF-6" Single-family Residential, "GO" General Office and "GC" General Commercial. Surrounding land uses include: retail sales, office, self-service storage warehousing and the Wichita-Valley Center Floodway. The character of the area is a mix of uses, though primarily retail and convenience services. The suitability of the subject property for the uses to which it has been restricted. The property is currently zoned "LC" Limited Commercial. The "LC" district permits a wide range of retail sales uses, however the small-lot size (.6 acre), and proximity to the "Big Ditch" probably limit potential retail sales users. Extent to which removal of the restrictions will detrimentally affect nearby property: The suggested conditions contained in the Protective Overlay, the natural buffer provided by the floodway and the fencing already in place at the self-storage facility, which includes outdoor storage, help to mitigate anticipated detrimental affects. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Strategy III.B5 of the Wichita-Sedgwick County Comprehensive Plan states that it is appropriate to confine highway-oriented uses, outdoor sales and non-retail commercial uses to highway corridors and established urban areas containing similar uses (e.g. Kellogg, Broadway and the CBD fringe). The plan map depicts this site as appropriate for commercial uses. While this use at this location is not in conformance with the recommended plan, this site is somewhat unusual as discussed in No. 3 above. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved).

OSBORNE-HOWES moved, **HENTZEN** seconded the motion, and it carried unanimously (12-0).

6. **Case No. CON2001-00006** – Midwest Historical & Genealogical Society c/o Waneta M. Vickers (owner); Steven Icard, Apex Engineering, Inc. (agent) request a Conditional Use to allow ancillary parking on property described as:

Lot 1, Block 1, Midtown Fourth Addition, Wichita, Sedgwick County, Kansas. Located west of Main, North of N 11th Street.

BACKGROUND: The Midwestern Historical & Genealogical Society (the Society, owner) and Apex Engineering (applicant) are requesting consideration for a Conditional Use to allow ancillary off street parking on property (Lot 1, Block 1, Midtown 4th Addition) zoned "B" Multi-family, located on the northwest corner of the Main Street - 11th Street intersection. Midwest Historical & Genealogical Society will continue to occupy its present location while the proposed parking for Apex Engineering will be on the applicant's area. Apex and the Society are proposing (contingent upon recommendation by the MAPC and approval by the City Council of the Conditional Use for ancillary parking) to exchange parts of their property that are in the abandoned 100-ft wide Union Pacific (UP) RR ROW.

Exhibit B shows items 1 & 2. Item 1 being the Society property in the abandoned UP RR ROW that they propose to sell and exchange for the property Apex has, Item 2, that lies in the abandoned UP RR ROW. The Unified Zoning Code requires a Conditional Use for parking areas in any district zoned "RR" Rural Residential through "NO" Neighborhood Office.

Apex Engineering is requesting consideration of ancillary parking for this undeveloped site due to anticipated expansion of their workforce triggered by future construction of an 18,564 square foot building, adjacent to the proposed parking site. This building will combine expanded manufacturing activity (16,714 square feet) and warehousing (1,850 square feet). Apex Engineering currently has a complex of buildings located on the east side of Wellington Place, west of the 100 foot wide abandoned Union Pacific ROW, and between 11th and 12th Streets, plus a warehouse on the west side of Wellington Place. This complex of buildings houses 6,400 square feet of office, 15,850 square feet of warehouse and 43,652 square feet of manufacturing. The anticipated expansion will bring the total square footage of buildings and their uses to 6,400 square feet of office, 17,700 square feet of warehouse and 60,366 square feet of manufacturing. Approximately 1/3 of the proposed building (Exhibit B, Item 3) for Apex would sit in the portion of the abandoned UP RR ROW that the City of Wichita owns. The City Council will have to consider and take action on the approval of transfer of ownership to Apex.

Currently this site is the north undeveloped part of the Midwest Historical & Genealogical Society property. The owner uses only the southern half of the property and on it has a building housing the Society. There is also a concrete parking lot on this half of the property used by the Society and an existing 4-ft chain link fence on its perimeter. The site abuts the abandoned 100-ft wide Union Pacific RR ROW on the west and north. There are no tracks in the RR ROW and it is unpaved. The applicant proposes ancillary parking on this site and on the adjacent Union Pacific RR ROW that would provide 59 parking spaces. The total number of required parking spaces for the Apex complex is 165 parking spaces. This proposed parking site would leave the applicant 106 spaces (165 required - 59 proposed = 106 needed) short of the required 165 spaces. To acquire the 106 parking spaces to meet the parking requirement of 165 spaces, the applicant is also requesting consideration of ancillary parking on one other property. This request for ancillary parking is presented in CON2001-00007, which is on today's agenda for consideration. CON2001-00007 provides 100 additional parking spaces. Another 8 spaces are proposed in the abandoned Union Pacific Railroad ROW (this part has an alley in it), as shown on the site plan for the Apex Expansion (Ex. B). This ROW is zoned "LI" Limited Industrial, which permits accessory parking by right. The combined total of CON2001-00007 & CON2001-00006 proposed ancillary parking spaces plus the 8 proposed spaces shown on the site plan of the Apex expansion (Ex. B) provide 167 spaces with 2 spaces for persons with disabilities. The required parking spaces are 165 spaces with 6 of those spaces provided for persons with disabilities.

The neighborhood to the west and north of the proposed parking site is zoned Limited Industrial and contains the abandoned RR ROW. Beyond the RR ROW on the west and north is the Apex complex, plus a printing shop. The property to the south (beyond the Society's development and across 11th Street) is zoned LI Limited Industrial and is developed residential. The properties to the east are zoned B Multi-Family. Development on these properties (starting on the north end and heading south) include Horace Mann Middle School, single family residences and a small church. Main Street separates these properties from the proposed parking.

CASE HISTORY: The property is part of Midtown 4th Addition, which was entered on transfer record July 7, 1985. There was a zoning change, subject to the Replat, July 9, 1985 from E Light Industrial to B Multi-Family.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI" Limited Industrial	Abandoned Union Pacific RR ROW
SOUTH:	"B" Multi-Family	Midwest Historical & Genealogical Society
EAST:	"B" Multi-Family	Horace Mann Middle School
WEST:	"LI" Limited Industrial	Abandoned Union Pacific RR

PUBLIC SERVICES: Municipal water and sewer services are available to this site. The 1999 north - south traffic volume at the 13th Street & Main Street intersection (the closest traffic count, a block to the north) is 2,644 average daily trips. A study (by HWS) is underway in regards to making this section of Main Street a two-way road. Preliminary number of average daily trips, south of this intersection indicates a possible 6,000 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as medium density residential. The current zoning of the site is B Multi-Family, a very high residential density. Ancillary parking is a Conditional Use for both of these residential designations, per the regulations detailed in the WSC Unified Zoning Code. The property is also identified as being in a Revitalization Area and a Local Investment Area, as noted in the 1998 City of Wichita Neighborhood Revitalization Plan.

By definition this area has issues of building improvements, infrastructure improvements, economic development, and neighborhood development that need strategy and investment. The MAPC has a longstanding informal policy favoring the expansion of existing businesses.

RECOMMENDATION: Consideration of the applicant's request for ancillary parking on this site is tied to the applicant's request for ancillary parking as presented in CON2001-00007. CON2001-00007 is on this agenda for consideration and recommendation. Taking both CON2001-00007's & -00006's ancillary parking proposals together, along with the 8 proposed spaces located in the abandoned Union Pacific RR ROW provides the applicant with 167 parking spaces, the requirement is 165 parking spaces. The applicant must provide 6 of those parking spaces for persons with disabilities

Staff recommends that the request be APPROVED, subject to the following conditions:

- 1 The ancillary parking area shall be developed in conformance with the requirements (1-10) of Sec. III-D.p of the Unified Zoning Code.
- 2 The applicant shall plat (the RR ROW is unplatted) and replat the properties involved in Apex expansion, which includes the properties being considered for ancillary parking per the standards in the WSC Subdivision Regulations.
- 3 The applicant shall submit a revised site plan giving dimension control in existing and proposed buildings, vehicle circulation, fencing and solid screening, ingress and egress, parking areas, loading areas, outside storage areas, landscaping and showing all easements and set backs (as they will be according to the Replat) for review and approval by the Zoning Administrator.
- 4 The applicant shall meet the required parking spaces of 165 spaces of which 6 of those are for persons with disabilities, per Sec.IV-A-8 of the Unified Zoning Code.
- 5 The proposed 8 parking spaces, as shown on Ex.B and entirely located in the abandoned 100-foot wide abandoned Union Pacific RR ROW, shall meet the requirements for parking, per Sec. IV-A of the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Apex Engineering complex is located both north and west of the proposed parking site. The abandoned Union Pacific RR ROW runs between the proposed parking site and the Apex complex. The zoning for both is "LI" Limited Industrial. When the Railroads were using this track, this was an appropriate site for manufacturing. Union Pacific abandoned these tracks via a Donated Quick Claim on October 19th, 1999 and shortly thereafter the tracks were removed. There are several active industrial uses located to the south of Apex (LI Limited Industrial zoning), adjacent to the tracks. Properties to the south and east of the proposed parking are zoned "B" Multi-Family. Development includes the Horace Mann Middle School grounds, small residential, a church and the Midwest Historical & Genealogical Society.
2. The suitability of the subject property for the uses to which it has been restricted: Because of the irregular shape of the undeveloped remainder of Lot 1, Blk1, Midtown 4th Addition (which is the proposed parking site) and its small size (0.24 acres) it is doubtful if this could be developed as multi-family.
1. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for ancillary parking on B Multi-Family zoning is a Conditional Use per the WSC Unified Zoning Code. The Comprehensive Plan calls for this property to remain moderate density, i.e., multi-family. The 1998 City of Wichita Neighborhood Revitalization Plan has recognized the area this site is in as one needing strategy and investment for building improvements, infrastructure improvements, economic development, and neighborhood development. The anticipated expansion of Apex Engineering provides economic opportunity for the neighborhood. The conditional use request for ancillary parking supports this expansion and provides an opportunity for the City and Apex to apply the community's development standards. The MAPC has consistently supported request for the expansion of existing businesses.
5. Impact of the proposed development on community facilities: Currently Apex employs 146 employees, 119 on first shift and 27 on second shift. The anticipated expansion at Apex (which is triggering the request for consideration of the conditional use for ancillary parking) will bring the total employment at Apex to an estimated 206 employees, 149 on first and 57 on second. It is possible that some of this new workforce will come from the surrounding neighborhood, thus an economic impact on the surrounding neighborhood. The increase in the workforce will also increase traffic in the immediate residential neighborhood, plus the possible increase in truck traffic due to the expansion of manufacturing activities at Apex. Horace Mann Middle School is a member of this neighborhood, the increase in vehicular traffic will have an impact on the school as well as the roads being used by this increase in traffic, in particular the truck traffic. However, existing facilities are able to handle expected demands. There is a 20-MPH school zone on Main Street in this immediate area.
7. Case No. CON2001-00007 – Apex Engineering, Inc., (owners); Steven B. Icard (agent) request a Conditional Use to allow ancillary parking on property described as:

Odd Lots 25 through 39, inclusive, on Wellington Place, Allen's Resurvey of Turner's Addition to the City of Wichita, Kansas. Located between 11th & 12th Streets on the west side of Wellington Place.

BILL LONGNECKER, Planning staff, pointed out land use and zoning; and showed slides of the general area.

BACKGROUND: The applicant, Apex Engineering, is requesting consideration for a Conditional Use to allow ancillary off street parking on property zoned B Multi-family. The property/site (0.85 acres, see attachment A) is described as Lots 25-39 (inclusive), Block 1, Allen's Resurvey of Turner's Addition, located between Wellington Place and State Street (east & west) and 11th & 12th Streets (south & north). The Unified Zoning Code requires a Conditional Use for parking areas in any district zoned "RR" Rural Residential through "NO" Neighborhood Office.

Apex Engineering is requesting consideration of ancillary parking for this undeveloped site due to anticipated expansion of their workforce triggered by future construction of an 18,564 square foot building. This building will combine expanded manufacturing activity (16,714 square feet) and warehousing (1,850 square feet). Apex Engineering currently has a complex of buildings located on the east side of Wellington Place, west of the 100 foot wide abandoned Union Pacific ROW, and between 11th and 12th Streets, plus a warehouse on the west side of Wellington Place. This complex of buildings houses 6,400 square feet of office, 15,850 square feet of warehouse and 43,652 square feet of manufacturing. The anticipated expansion will bring the total square footage of buildings and their uses to 6,400 square feet of office, 17,700 square feet of warehouse and 60,366 square feet of manufacturing.

Currently this undeveloped site is being used for parking by the applicant and has 1 (one) existing curb cut for ingress – egress, which opens into Wellington Place. The site abuts State Street on the west. State Street is not paved at this location and acts as an alley and the orientation of single-family homes on either side of it (their back yards abutting State Street) re-enforce this use of State Street. The applicant proposes paved parking on this site that would provide 100 parking spaces. The total number of parking spaces for the Apex combination of the square footage of the buildings and their uses is 165 parking spaces. This proposed parking site will leave the applicant 65 spaces (165 required – 100 proposed = 65 needed) short of the required 165 spaces. To acquire the 65 parking spaces to meet the parking requirement of 165 spaces, the applicant is also requesting consideration of ancillary parking on 2 (two) other properties that are adjacent to each other. This request for ancillary parking is presented in CON2001-00006, which is on today's agenda for consideration. CON2001-00006 provides 59 additional parking spaces. Another 8 spaces are proposed in the abandoned Union Pacific Railroad ROW, as shown on the site plan for the Apex Expansion (Ex. B). This ROW is zoned "LI" Limited Industrial, which permits accessory parking by right. The combined total of CON2001-00007 & CON2001-00006 proposed ancillary parking spaces plus the 8 proposed spaces shown on the site plan of the Apex expansion (Ex. B) provide 167 spaces with 2 spaces for persons with disabilities. The required parking spaces are 165 spaces with 6 of those spaces provided for persons with disabilities.

The neighborhood to the west and north of the proposed parking site is zoned B Multi-Family and developed residential. Between the proposed parking site and a residence and on Apex property is an unscreened outside storage area for scrap metal materials, that is used by Apex. As previously stated, State Street runs along the western edge of the property, is unpaved and serves as an alley. The property to the south is zoned LI Limited Industrial and is developed as a paved, marked, parking lot used by the business Winding Specialist. The property to the east is zoned LI Limited Industrial and contains the Apex Engineering building complex.

CASE HISTORY: The property is part of Allen's Resurvey of the Turner Addition, which was entered on transfer record October 29, 1885. The alley running between Lots 50 & 56 (east side) and 24 – 48 (inclusive, west side), Allen's Resurvey of the Turner Addition was vacated in 1912.

ADJACENT ZONING AND LAND USE:

NORTH: "B" Multi-Family	Mostly residence
SOUTH: "LI" Limited Industrial	Parking lot, manufacturing and warehouse
EAST: "LI" Limited Industrial	Manufacturing & warehouse complex
WEST: "B" Multi-Family	Mostly residence

PUBLIC SERVICES: Municipal water and sewer services are available to this site. There are no traffic counts on Wellington Place in this area. The 1999 north – south traffic volume at the 13th Street & Main Street intersection (the closest traffic count, a block to the north) is 2,644 average daily trips. A study (by HWS) is underway in regards to making this section of Main Street a two-way road. Preliminary number of average daily trips, south of this intersection indicates a possible 6,000 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as medium density residential. The current zoning of the site is "B" Multi-Family, a very high residential density. Ancillary parking is a conditional use for both of these residential designations, per the regulations detailed in the WSC Unified Zoning Code. The property is also identified as being in a Revitalization Area and a Local Investment Area, as noted in the 1998 City of Wichita Neighborhood Revitalization Plan. By definition this area has issues of building improvements, infrastructure improvements, economic development, and neighborhood development that need strategy and investment. The MAPC has a longstanding informal policy favoring the expansion of existing businesses.

RECOMMENDATION: Consideration of the applicant's request for ancillary parking on this site is tied to the applicant's request for ancillary parking as presented in CON2001-00006. CON2001-00006 is on this agenda for consideration and recommendation. Taking both CON2001-00007's & -00006's ancillary parking proposals together, along with the 8 proposed spaces located in the abandoned Union Pacific ROW provides the applicant with 167 parking spaces, the requirement is 165 parking spaces. The applicant must provide 6 of those parking spaces for persons with disabilities.

Staff recommends that the request be approved, subject to the following conditions:

1. The ancillary parking area shall be developed in conformance with the requirements (1-10) of Sec. III-D.p of the Unified Zoning Code.
2. The applicant shall plat (RR ROW property involved) and replat the properties involved in Apex expansion, which includes the properties being considered for ancillary parking per the standards in the WSC Subdivision Regulations.
3. The applicant shall submit a revised site plan giving dimension control in existing and proposed buildings, vehicle circulation, fencing and solid screening, ingress and egress, parking areas, loading areas, outside storage areas, landscaping and showing all easements and set backs (as they will be according to the Replat) for review and approval by the Zoning Administrator.
4. The applicant shall meet the required parking spaces of 165 spaces of which 6 of those are for persons with disabilities, per Sec. IV-A-8 of the Unified Zoning Code.
5. The proposed 8 parking spaces, as shown on Ex.B and entirely located in the abandoned 100-foot wide abandoned Union Pacific RR ROW shall meet the requirements for parking, per Sec. IV-A of the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Apex Engineering complex is located on both sides of Wellington Place, between 11th and 12th Streets and on the west side of the abandoned Union Pacific RR ROW. The zoning of the complex is a mixture of B Multi-Family (the proposed parking site) and LI Limited Industrial. When the Railroads were using this track, this was an appropriate site for manufacturing. Union Pacific abandoned these tracks via a Donated Quick Claim on October 19th, 1999, shortly thereafter the tracks were removed. There are several active industrial uses located to the south of Apex (LI Limited Industrial zoning), adjacent to the tracks. The rest of the neighborhood to the north and west is residential (mostly single family) in development and (B Multi-Family) zoning.
2. The suitability of the subject property for the uses to which it has been restricted: Because of the industrial type of development established on Wellington Place Drive between 11th and 12th streets, the development of Multi-Family/Residential on this site is unlikely.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for ancillary parking on B Multi-Family zoning is a conditional use per the WSC Unified Zoning Code. The Comprehensive Plan calls for this property to remain moderate density, i.e., multi-family. The 1998 City of Wichita Neighborhood Revitalization Plan has recognized the area this site is in as one needing strategy and investment for building improvements, infrastructure improvements, economic development, and neighborhood development. The anticipated expansion of Apex Engineering provides economic opportunity for the neighborhood. The conditional use request for ancillary parking supports this expansion and provides an opportunity for the City and Apex to apply the community's development standards.
5. Impact of the proposed development on community facilities: Currently Apex employs 146 employees, 119 on first shift and 27 on second shift. The anticipated expansion at Apex (which is triggering the request for consideration of the conditional use for ancillary parking) will bring the total employment at Apex to an estimated 206 employees, 149 on first and 57 on second. It is possible that some of this new workforce will come from the surrounding neighborhood, thus an economic impact on the surrounding neighborhood. The increase in the workforce will also increase traffic in the immediate residential neighborhood, plus the possible increase in truck traffic due to the expansion of manufacturing activities at Apex. Horace Mann Middle School is a member of this neighborhood, the increase in vehicular traffic will have an impact on the school as well as the roads being used by this increase in traffic, in particular the truck traffic. There is a 20MPH school zone on Main Street in this immediate area.

LONGNECKER "The Conditional Use request is for ancillary parking on this location (indicating). The piece of property that is being proposed for this Conditional Use is owned by the Midwest Historical and Genealogical Society, which is located right here (indicating). This property is zoned 'B' Multi-Family. The property, as it sets now, would have to have part of the abandoned 100-foot wide Union Pacific Railroad right-of-way included in this to get the parking that the applicants have laid out.

Concurrent with this parking request for this particular piece of property is Conditional Use Request 2000-06, which is this property up here (indicating). Let me go to an exhibit showing the extent of this parking. This is item CON-06 property that is part of the Genealogical Society's property. (Indicating) This is the property that is CON-07. The reason for this

parking request is that the applicant is getting ready to build an expansion of their existing facilities, which are located in this area here (indicating) between 11th and 12th Street on Wellington and located on the west side of the abandoned Union Pacific Railroad right-of-way.

The facility itself is going to increase the total square footage of the Apex Engineering by 18,564 square feet. Approximately 16,000 square feet of that will be manufacturing and about 1,800 square foot of that will be warehousing. The City owns some of that abandoned right-of-way because it abuts to a city street here—that would be Main Street. There is a proposed land exchange between the Genealogical Society and Apex Engineering. The City Council must give consent on the proposed land use, the expansion of the Apex facility, that will occur on the portion of the abandoned Rail Road Row that belongs to the City.

As it is, the required parking, after the expansion of this facility, will be 165 spaces with 6 for disabled parking. The site plans that we have, which are shown, are a combination of the two—this area here and this area here (indicating) and would provide 167 spaces with 2 for disabled.

The zoning for this area, again, you have industrial where the expansion is going to take place; Multi-Family plus Limited Industrial where the CON -06 is going to be taking place, and Multi-Family for this area here (indicating) where the other parking lot is supposed to take place. Currently, the applicant for both CON-06 and CON-07, Apex Engineering is using this area here for parking. It is undeveloped, there are no improvements on it, it is simply a grass area.

Staff is recommending approval for both of these Conditional Uses for ancillary parking, based on the condition that they meet, in regards to 'developed in conformance with Requirements 1-10 of Section III-D.p of the Uniform Zoning Code'. That addresses parking surface, paving, landscaping, screening, lighting, and other issues. Staff is also asking that the applicant shall submit a revised site plan, giving dimension control in existing proposed buildings, vehicle circulation, fencing and solid screening, ingress/egress, parking areas, loading areas, outside storage areas, landscaping and showing all easements and setbacks as they will be, according to a replat and a plat of the property.

Another one of the conditions is that the applicant plat and replat these properties that are going to be part of the Apex Engineering. The abandoned 100-foot right-of-way is an unplatted piece of property and it will have to be platted. The area that Apex Engineering is using right now will have to be replatted so we have one development. Another condition that staff is recommending is that to meet the parking requirement of spaces for 165 spaces, 6 of those for persons of disabilities, the applicant is also proposing another 8 spaces the applicant needs to meet that requirement right here that is in the abandoned right-of-way of the railroad. That is an additional 8 spaces to get the required parking, based on the use of the buildings and the square footage of the buildings. Based on these conditions, staff recommends that the Condition Use request for ancillary parking be approved for CON-06 and CON-07. Are there any questions?"

HENTZEN "How long has the railroad row been vacant?"

LONGNECKER "The railroad right-of-way was abandoned."

HENTZEN "What do you mean by abandoned?"

LONGNECKER "Well, there are two ways that they could have done this, as I understand it. When the railroads were using this track, it was an appropriate site for manufacturing. The Union Pacific abandoned these tracks via a donated Quick Claim on October 19, 1900. Shortly thereafter, the tracks were removed. I talked to Mr. Philbrick in Land Management, and according to him, if, by donated as a Quick Claim, this allowed the adjacent landowners to move their property to the middle of this abandoned right-of-way, so Apex Engineering has 50 foot to the center of this abandoned right-of-way, and the Genealogical Society has the other 50 foot, which is meeting right in the half.

Again, the City has some ownership claim because part of this abandoned right-of-way is abutting Main Street, so the City Council will have to agree to let this property be developed by Apex. That will be decided at the City Council."

HENTZEN "Okay."

LONGNECKER "Are there any other questions?"

GAROFALO "Do you know where the openings would be there? Obviously on Main Street, I guess."

LONGNECKER "Well, right now, we have requested a revised site plan. As it is now, the applicant is showing ingress/egress off of this property here onto the abandoned right-of-way and they are showing ingress/egress onto Wellington off of this proposed parking site.

State Street is unpaved at this point and actually functions like an alley and the orientation of the structures around State Street reinforces that function. They have an existing curb cut right in here (indicating), and they are proposing another curb cut. Again, we are asking for a revised site plan to show circulation, give us some more dimension control to show that we have the proper circulation and spacing. We have a scale drawing, but we feel like we have enough here that we can recommend this and feel like they do have the amount of land needed for landscaping, screening and parking."

GAROFALO "And the proposed lot on Main would continue to have the access onto the right-of-way?"

LONGNECKER "That would be staff's recommendation, yes. And we have considerations with Horace Mann Middle School, which is right in this location here (indicating), so we have some specialized traffic in the fact that we have a school zone, and in talking with our Traffic Engineers, they would prefer that the traffic use this route in here (indicating) rather than have ingress and another curb cut on Main Street."

GAROFALO "Good."

MICHAELIS "Are there any other questions of staff?"

KROUT "Bill, did you mention the District Advisory Board meeting last night, and if you have a picture of what the building is supposed to look like?"

LONGNECKER "Yes, sir, I do. (Indicating to slide) That is the proposed building that Apex Engineering is proposing to put on the property, both on the Genealogical Society's property and the abandoned right-of-way. This is the reason they are asking for the parking. This is a 48-foot high building and they are proposing a steel structure there. They are proposing some rail fencing here to help minimize possible mischief in regards to vandalism. They also have a 20-foot space proposed right now between their property line and the building itself and the setbacks so they can landscape this area.

District Advisory Board VI met last night at the Evergreen Park Recreational Center and they all voted to recommend this to the Planning Commission. Are there any other questions?"

MICHAELIS "Okay, thank you. May we hear from the applicant, please?"

STEVE DWERLKOTTE "I am the President of Apex Engineering. This expansion is as a result of a normal business expansion that we have gone through. I purchased the assets of this company about 4-1/2 years ago. It had about 60 employees at that point. Today, we have 275 employees, we have four factories—three here in Wichita and one in Ada, Oklahoma. Our customer, Cessna, who is working with us on a lot of other expansions and wanting us to build detail parts for a number of their new aircraft programs that they have going on. They have basically asked us to do this and it will add an additional 60 jobs for Wichita. It won't transfer them from Cessna, these will be new jobs.

When we purchased this facility, 4-1/2 years ago, there were a number of issues that remained kind of undone. Item No. 7 being one, where the previous company was using a dirt lot that was graveled as parking. We would like to clean that up, pave it and basically get the paperwork all correct so that it can actually be used as parking. This expansion on this building, we have been working with our neighbors on, the Genealogical Society. As you know, the abandoned railroad easement caused their property to be pie-shaped and not very useable for the expansion plans they have for their library and it caused us not to have any ability to really grow because of the slice it took out behind our building. By replatting that property, and changing both of our boundaries, it allows them to grow and it allows us to grow, cleans up the parking issues and will add the employment in this factory, which we call Plant No. 1. Thank you very much."

MICHAELIS "Are there any questions of the applicant?."

LOPEZ "Are you in agreement with all staff recommendations?"

DWERLKOTTE "Yes, we are. And to answer one of the questions, which was is there going to be access to Main Street, we are adding a 6-foot high wrought iron fence and we would like to control access to the property because as you probably know, graffiti is a real problem and we want to try to limit the access to the building. So we want to try to have access only from the alleyway and like I said, put trees and kind of a landscaped area, and a wrought iron fence along Main Street."

MCKAY "Sir, you said you had other locations in the City. Where are those locations?"

DWERLKOTTE "Our Plant No. 2 is on Second Street just west of Seneca. If you know the factory that used to be the old Piaggio P180. We have about 60,000 square feet in there. Weckworth Langdon and us and School Supply are the three tenants in that facility, and then we just purchased another facility on north Santa Fe, north of 13th Street. It is on the corner of Santa Fe and 14th Street. We just purchased that—we are actually just closing on that facility now."

MICHAELIS "Thank you, Mr. Dwerlkotte. Is there anyone here to speak in favor of this application? Is there anyone wishing to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The Apex Engineering complex is located on both sides of Wellington Place, between 11th and 12th Streets and on the west side of the abandoned Union Pacific RR ROW. The zoning of the complex is a mixture of B Multi-Family (the proposed parking site) and LI Limited Industrial. When the Railroads were using this track, this was an appropriate site for manufacturing. Union Pacific abandoned these tracks via a Donated Quick Claim on October 19th, 1999, shortly thereafter the tracks were removed. There are several active industrial uses located to the south of Apex (LI Limited

Industrial zoning), adjacent to the tracks. The rest of the neighborhood to the north and west is residential (mostly single family) in development and (B Multi-Family) zoning. The suitability of the subject property for the uses to which it has been restricted: Because of the industrial type of development established on Wellington Place Drive between 11th and 12th streets, the development of Multi-Family/Residential on this site is unlikely. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for ancillary parking on B Multi-Family zoning is a conditional use per the WSC Unified Zoning Code. The Comprehensive Plan calls for this property to remain moderate density, i.e., multi-family. The 1998 City of Wichita Neighborhood Revitalization Plan has recognized the area this site is in as one needing strategy and investment for building improvements, infrastructure improvements, economic development, and neighborhood development. The anticipated expansion of Apex Engineering provides economic opportunity for the neighborhood. The conditional use request for ancillary parking supports this expansion and provides an opportunity for the City and Apex to apply the community's development standards. Impact of the proposed development on community facilities: Currently Apex employs 146 employees, 119 on first shift and 27 on second shift. The anticipated expansion at Apex (which is triggering the request for consideration of the conditional use for ancillary parking) will bring the total employment at Apex to an estimated 206 employees, 149 on first and 57 on second. It is possible that some of this new workforce will come from the surrounding neighborhood, thus an economic impact on the surrounding neighborhood. The increase in the workforce will also increase traffic in the immediate residential neighborhood, plus the possible increase in truck traffic due to the expansion of manufacturing activities at Apex. Horace Mann Middle School is a member of this neighborhood, the increase in vehicular traffic will have an impact on the school as well as the roads being used by this increase in traffic, in particular the truck traffic. There is a 20-MPH school zone on Main Street in this immediate area.) I move that we recommend to the governing body that the requests for CON-06 and CON-07 be approved, subject to the following:

1. The ancillary parking area shall be developed in conformance with the requirements (1-10) of Sec. III-D.p of the Unified Zoning Code.
2. The applicant shall plat (RR ROW property involved) and replat the properties involved in Apex expansion, which includes the properties being considered for ancillary parking per the standards in the WSC Subdivision Regulations.
3. The applicant shall submit a revised site plan giving dimension control in existing and proposed buildings, vehicle circulation, fencing and solid screening, ingress and egress, parking areas, loading areas, outside storage areas, landscaping and showing all easements and set backs (as they will be according to the Replat) for review and approval by the Zoning Administrator.
4. The applicant shall meet the required parking spaces of 165 spaces of which 6 of those are for persons with disabilities, per Sec. IV-A-8 of the Unified Zoning Code.
5. The proposed 8 parking spaces, as shown on Ex.B and entirely located in the abandoned 100-foot wide abandoned Union Pacific RR ROW shall meet the requirements for parking, per Sec. IV-A of the Unified Zoning Code.

MCKAY moved, **GAROFALO** seconded the motion.

HENTZEN "Are we taking CON-06 and CON-07 together?"

KROUT "Yes, we are."

HENTZEN "Good."

VOTE ON THE MOTION: The motion carried unanimously (12-0).

8. **ZON2001-00006** – Norris Real Estate, (Owner/Applicant) Austin Miller, PA, Kim Edgington (Agent) request zone change from "LC" Limited Commercial on property described as:

Tract A: Part of Lot 1, Block 1, Phillips 66 Kellogg and Tyler Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as: The West 188 feet of the North 115 feet of said Lot 1.

Tract B: Part of Lot 1, Block 1, Phillips 66 Kellogg and Tyler Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as: Beginning at a point on the North line of said Lot 1, said point

being 188 feet East of the Northwest Corner of said Lot 1; thence North 88 degrees 00'05" East for a distance of 216.94 feet to the Northeast corner of said Lot 1; thence South 01 degrees 37'05" East for a distance of 220.12 feet; thence South 88 degrees 03'10" West for a distance of 64.75 feet; thence South 01 degrees 39'58" East for a distance of 49.09 feet; thence South 65 degrees 09'25" West for a distance of 55.60 feet; thence North 01 degrees 38'40" West for a distance of 175.74 feet; thence South 88 degrees 00'05" West for a distance of 101.00 feet to a point 188 feet East of the West line and 115 feet South of the North line of said Lot 1; thence North 01 degree 38'40" West parallel with the West line of said Lot 1 for a distance of 115.00 feet to the point of beginning. Generally located on the southeast corner of Tyler and McCormick.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. Hr reviewed the following staff report:

BACKGROUND: The applicant wishes to relocate his business ("All-American Auto") which is currently located at Westfield and West Kellogg to property located east of Tyler and south of McCormick. This relocation is necessary due to improvements planned for West Kellogg that will force the applicant to move to a new location. The application area is a 1.4 acre "L" shaped tract that was created as a result of a lot split to the northern and eastern portions of the "Phillips 66 Kellogg and Tyler Addition." The applicant purchased the property (1.4 acres) from the Phillips 66 Company in early 2000.

The application area is split into two commercial tracts, Tract A and B. Both tracts are currently zoned "LC" Limited Commercial. Tract "A" contains .5-acre and has 115 feet of frontage on Tyler and 188 feet of frontage along McCormick. The applicant would like to develop a paint/body shop (vehicle repair, general) and a car sales lot (vehicle and equipment sales, outdoor) on one or both of these two tracts. One point of platted access control has been approved for Tract "A" off of Tyler. No access controls were obtained from Tract "A" along McCormick. The applicant's "vehicle repair, limited" business is to be located on "Tract B." The applicant would like to add a paint and body shop to the services they offer. They occasionally end up with customers who do not pay their repair bills and they need a way to dispose of those vehicles. Tract B has 217 feet of frontage along McCormick. No access controls were obtained along Tract "B".

"Vehicle repair, general" is first permitted by right in the "GC" General Commercial district. "Vehicle and equipment sales, outdoor" is a conditional use in the "LC" Limited Commercial district and by-right in the "GC" General Commercial district. Tract "A" is currently undeveloped. Tract "B" is currently being developed with the applicant's vehicle repair

Across McCormick Street, and north of the application area, is a strip center that includes "LC" Limited Commercial and "GC" General Commercial uses. To the east is a credit union that is zoned to "LC." The Phillips 66 Service Station is located to the south and is zoned "LC." West across Tyler, are single-family residences that are zoned "SF-6" Single-Family Residential. To the southwest is a steak house and a strip center that is zoned "LC." The immediate general area, however, is predominately made up of retail and commercial uses.

Parking requirements for "vehicle repair, general" requires one (1) space per 500 square feet of building plus three (3) spaces. Parking requirements for "vehicle and equipment sales" are one (1) space per 500 square feet of building plus two (2) spaces for the first 10,000 square feet of lot area used for sales, display or storage purposes, plus one (1) space for each 10,000 square feet of lot area used for sales, display or storage purposes thereafter. The applicant expects to display a maximum of six vehicles for sale on-site.

CASE HISTORY: The "Phillips 66 Kellogg & Tyler Addition" was platted in 1999. A lot split (two commercial lots - Tracts "A" & "B") was approved on December 15, 2000.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" & "GC"	Retail center, offices, and restaurant
EAST: "GC"	Credit Union
SOUTH: "LC"	Phillips 66 Service Station
WEST: "SF-6" & "LC"	Residential, restaurant and retail center

PUBLIC SERVICES: Public water and sanitary sewer services are currently available to this site. Tyler, near McCormick, is a four-lane arterial carrying approximately 27,992 average daily trips (ADTs) in 2000. McCormick is a local street at this location.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this general location as appropriate for "commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the request for "GC" General Commercial be APPROVED, subject to the following Protective Overlay conditions:

- A. Permitted uses are restricted to those uses permitted by-right in the "LC" Limited Commercial district plus "vehicle repair, general" and vehicle sales, outdoor (passenger vehicles only).
- B. No outside storage of salvaged vehicles or parts shall be permitted in conjunction with vehicle sales.
- C. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
- D. No off-site or portable signs are permitted.
- E. Exterior audio systems shall be prohibited.
- F. There shall be no elevated platforms for the display of vehicles.
- G. Any fencing of the outdoor vehicle sales shall be wrought iron or similar materials that are approved by the Planning Director.
- H. No outside storage of salvaged vehicles or parts shall be permitted in association with vehicle sales.
- I. All vehicles that are not complete and visually intact are to be screened from view from adjacent and adjoining properties and from ground level view along abutting streets. Screening material shall be of screening material approved by the Unified Zoning Code.
- J. The development of this property shall proceed in accordance with these conditions, any substantial deviation from these conditions as determined by the Zoning Administrator and the Director of Planning shall constitute a violation of the building permit authorizing construction of the proposed development.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: Across McCormick Street, and north of the application area, is a strip center that includes "LC" Limited Commercial and "GC" General Commercial uses. To the east is a credit union that offers cars for sale on "GC" zoned land. The Phillips 66 Service Station is located to the south and is zoned "LC." Northwest across Tyler are single-family residences that are zoned "SF-6" Single-Family Residential. To the southwest is a steak house and a strip center that is zoned "LC." The closest residential housing is west across Tyler Road and to the northwest of the application area. The general area, however, is predominately made up of retail and commercial uses.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site can be used for automotive repair as currently zoned. The "LC" district permits a wide range of retail and office uses. The applicant can operate an automotive repair business in the "LC" district and conduct outdoor vehicle and equipment sales with a Conditional Use.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property. Approval of "GC" General Commercial zoning would allow a wider range of uses, including outdoor vehicle and equipment sales, "vehicle repair, general" and outside storage. Approval of the request plus the proposed Protective Overlay would not negatively impact nearby businesses. The closest residential housing is northwest and a considerable distance from the application area. The area is predominately made up of retail and commercial uses. This site is ripe for development especially with improvements being made to nearby West Kellogg. Outdoor vehicle and equipment sales have already been approved on nearby property. Approval of the request as recommended should not have any detrimental affects on nearby properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. There are several auto-related uses currently along West Kellogg. Approval of this request would not introduce any uses that currently does not exist in this general location and will be in conformance with adopted plans
- 5. Impact of the proposed development on community facilities: None identified in as much as the site is already zoned "LC" Limited Commercial, platted and the recommended conditions limit the range of uses permitted.

MILLER "The application area on this case is an 'L' shaped piece of property located just south of McCormick and east of Tyler. There is a Phillips 66 gas station right there. Currently on the site today is an auto repair shop. The owner wants to be able to do auto body work, which requires 'GC' zoning. He also owns the rest of the site. This piece of property was created by a lot split where it was, at one time, one single lot. When the Kellogg improvements went through, they had to move the existing convenience store that was there back, so they replatted this into one lot and then they built the store. This parcel was then lot split off. It is basically configured in two tracts, Tract A being the western one, Tract B over here (indicating).

Tract B currently has the auto repair shop on it, but it can't do body work today because of its 'LC' zoning. So they are requesting that so that they can do body repair work. They are also interested in developing this corner over here. They don't have an intended use at this point in time. It is just a speculative piece of ground. They may eventually expand over there. At least that is the impression I am getting. They don't really know for sure what is going to happen there yet, but they are trying to get into a position to be able to go in whatever direction works out best.

There is one point of access off of Tyler. There are no access controls along McCormick. If you will recall a while back, this site was zoned 'GC' for a credit union so that they could sell cars that they were forced to repossess. So they do have a car sales lot next door on 'GC'. (Indicating on slides) This is the Merc.com and the Home Depot, and then there is another car sales lot over here. We have single-family and a church over in this area. There is single-family here. There was a request for zoning for 'LC' in this area; it is vacant today but there was quite a bit of neighborhood opposition and that case was put on hold pending sorting out what is happening on Kellogg improvements. There is the Longhorn Supper Club and kind of a little strip center located here.

Staff is recommending approval for this particular request subject to a Protective Overlay. The applicant has indicated to me that there are two things that he does want to discuss on this. One is on the Conditions, under the recommendation section, Items No. D and E. Item D is 'No off-site or portable signs are permitted', and E is 'Exterior audio systems shall be prohibited'. He will want to talk to you about those. I think we can take care of E pretty simply in that if there should be a drive-through restaurant located on this, say you just wanted to clarify that the exterior audio systems that are prohibited and then language that could work is 'except for a restaurant menu board' or something to that effect if that is amenable to you all. The other issue about the off-site signs and the portable signs, I am sure staff is not interested in changing those. Again, we are recommending approval based on the conditions suggested, 1 through 5."

JOHNSON "Dale, that application that we reviewed not too long ago, across the street to the west, staff wasn't in support of that, right?"

MILLER "No, I don't think we were. We just got a letter this week because the time, in terms of the delay had come up and they are still in negotiations, so I believe the letter was asking for 60 more days of deferral."

JOHNSON "I guess I am surprised. I know that the other property was due south of that house, but this is due east of the house. I don't know how deep that lot is, but I guess I am surprised to have staff be in support of a car lot."

MILLER "Well, all of the uses around it, to the north, east and south are all commercial. There is only one house that would be across the street. Whereas in this other situation, you had all of these homes here (indicating) where this was going to back up to that application. That, in my mind, is the difference. And the other thing was that this was such an odd piece of property that until something happens up here (indicating) so that there is frontage. They were kind of restricted on their access."

JOHNSON "But the new building that has been built there is just built to do repair work, not body work?"

MILLER "His current business, as I understand it, is auto repair and he will do that. But he would also like to do the body work as well."

JOHNSON "But there are no plans for this lot that is to the west of that?"

MILLER "That is my understanding. No? I am being told that there is some new information."

GAROFALO "Dale, on the access onto Tyler..."

MILLER "The current plat allows one point of access from Tyler to what would be Tract A. There is no platted access control along McCormick."

GAROFALO "That would be pretty close to the corner, wouldn't it?"

MILLER "I can't remember if there was a stipulation on how far south. I assume there was, but I don't remember."

GAROFALO "So that top piece is Tract A?"

MILLER (Indicating) "Tract A would be this chunk right in here and Tract B would be to the east, yeah."

OSBORNE-HOWES "Has the DAB made a recommendation?"

MILLER "This is another one of those where they are not meeting. If there are issues, they will meet between now and the City Council meeting."

OSBORNE-HOWES "Has there been any neighborhood concern about this one?"

MILLER "Nobody has called anyway, or sent any information that I am aware of. There may be somebody here today, but nobody has talked to me prior to this meeting."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Miller. Can we hear from the applicant, please?"

TIM AUSTIN "I am with Austin Miller; here as agent for the applicant. As Dale said, we are basically in agreement with staff's comments with the exception of D and E, and I think E as amended, as long as it allows a drive-thru menu board, I think we would be fine with it. As far as the off-site signs, the portable signs, no portable signs would be permitted. The

question has come up, this property in its current form would be allowed an off-site sign because it is along Kellogg with the 'GC' zoning. Our client would like to try to retain the sign rights, at least for an off-site sign along Kellogg, and certainly back in here (indicating). He wouldn't have any problem with that limitation, but he would like to have an off-site sign here (indicating).

The nearest off-site signs are, there is one down here (indicating), one here that is on property that the City owns and then there is one right here. So it does meet the spacing limitations.

A couple other just minor things, as far as Commissioner Johnson's question. (Indicating) This property back here is still being assembled, which, as you know, we were the ones handling that. The applicant over here, George Hlland, has this piece, this piece, this piece, and this piece (indicating). My understanding from his realtor is out of the four property owners here, which was what we were going back to see if they would join in the zoning application is that three of the four have agreed to participate, as has this property owner here. This house that sits here (indicating) and is zoned is actually a vacant house. He is asking a pretty high price for it, I guess, at the moment, but he has agreed that he would pay for the zoning costs.

As far as the access onto McCormick, there is a common access and that is kind of why it is split into two tracts, Tract A and Tract B. The Phillips 66 has an access back to McCormick here. That is a paved concrete driveway and that is being maintained. So because of that traffic right there, it kind of naturally fits to break it up into two tracts. With that, I would be happy to answer any questions."

GAROFALO "Tim, I would ask the same question. How close would that access be?"

AUSTIN "That access point, I think, as the lot split and the plat indicated, it was access control except for one opening. There wasn't a designation. The site plans that we are looking at right now as they are actually looking at developing that is a retail strip center doing some spec retail there. I haven't seen those. I received that information from the client about a week ago, wanting us to start doing the grading plan. I just haven't received the drawings from the architect yet, but when they go in and pull the driveway permit. I think Engineering would probably want them to keep that off of the intersection as far as their driveway permit."

GAROFALO "My only concern is that that is a pretty short block, actually, and it seems like it has a lot of access already in there. I suppose you wouldn't be interested in McCormick."

AUSTIN "Well, he has the one access point here (indicating). I don't know. Probably one access point isn't going to serve this tract, and if you try to put in a second access point, then you kind of have that same issue. You are getting close to the intersection. If you want to put it over the south line on the south line, I don't see that he would have a problem with that."

JOHNSON "Tim, how big is that Lot A?"

AUSTIN "The north/south dimension is 115 feet, and Tract A, the east/west dimension is 188 feet this way."

JOHNSON "And you say you are planning to put a strip center on that?"

AUSTIN "Just some retail spec space. That was my understanding."

MICHAELIS "Are there any further questions of the applicant? Thank you, Mr. Austin. Is there anyone here in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition? If not, we will bring it back to the Commission."

MCKAY "I do have one question of Tim. Show me again where the split is going to be?"

AUSTIN "The lot split drawing between the tracts was basically right here (indicating). This Phillips 66 is serviced by a sanitary sewer that is off of McCormick, and so the split was centered on the sewer easement that is servicing the gas station."

WARREN "I am going to make a motion to approve this, subject to staff comments. How about items D & E, do we want to take those off?"

MICHAELIS "You will need to make that part of your motion."

WARREN "Well, the audio system is not a problem is it? Item E?"

MICHAELIS "I think the applicant said basically that as long as it was limited to like an outdoor menu speaker that he was fine with that."

WARREN "So we can leave that on there?"

MILLER "We would just need a clarification if you are okay with the notion that they could have an order board for a restaurant. The way it reads now, it just says 'no exterior audio systems' period."

HENTZEN "What about Item D?"

WARREN "He wants portable signs? Oh, off-site signs."

MCKAY "Where do you want that sign to go, Tim, relatively speaking? Could you show us on the map?"

AUSTIN "Logically, it would just be along Kellogg. It wouldn't have any value back here."

WARREN "Okay. We'll include that also. I suppose the size of that sign—do we have to dictate the size of that sign, Marvin?"

KROUT "Oh, I would love for you to dictate what size that sign should be. (Laughter) I think a 14 x 80 would about do it. There are standards and the standards allow for—I think it is 1,000 square feet potentially—for a billboard to be along Kellogg."

WARREN "If we are to allow an off-site sign as he is recommending, what would be your recommendation then?"

KROUT "If you were going to recommend an offsite sign, you may want to hear from the applicant about it. I see a representative of Donrey here, so maybe he could tell you what he would like and not like. I think that there is an intermediate size that is around 300 square feet plus or minus. I said 300 and that may not be quite large enough, but maybe the representative from Donrey could tell you what exactly that break is?"

MCKAY "What is the size that is there presently?"

KROUT "One that is there presently?"

MCKAY "Isn't there one on that property presently?"

KROUT "No. There is one to the east."

MCKAY "Maybe that is the one I am thinking of."

WARREN "Could I ask the applicant? Do you have any idea what size sign you want?"

AUSTIN "My understanding is that a typical sign would be 14 x 48 feet. I think the Sign Code, if your motion was just to be in conformance with the City of Wichita Sign Code, I think it would take care of it because the on-site sign does count against the sign square footage."

WARREN "Is this a free-standing sign you are talking about?"

AUSTIN "Yes."

KROUT "Off-site signs do not count against on-site signs."

AUSTIN "No. The on-site signs count against the square footage on the off-site signs. Isn't that right? They don't correlate? Okay. I'm sorry."

OSBORNE-HOWES "I just remembered that we did something similar to this on Rock Road. I don't know if it was a Dairy Queen or whatever."

MICHAELIS "An Arby's."

OSBORNE-HOWES "Well, I remember that we ended up talking about a monument sign. What about a monument sign as opposed to a billboard."

KROUT "He needs the billboard. Kellogg is going to be elevated at this location, so the billboard is going to be 45 feet tall also. If you are going to allow one on an elevated freeway, the Code says you ought to allow it to be above so it can be seen above the guardrails of the elevated roadway."

WARREN "Can you live with a sign like 14 x 24? That would be 300 feet?"

AUSTIN "Yes, I was actually going to suggest a 12 x 24."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Across McCormick Street, and north of the application area, is a strip center that includes "LC" Limited Commercial and "GC" General Commercial uses. To the east is a credit union that offers cars for sale on "GC" zoned land. The Phillips 66 Service Station is located to the south

and is zoned "LC." Northwest across Tyler are single-family residences that are zoned "SF-6" Single-Family Residential. To the southwest is a steak house and a strip center that is zoned "LC." The closest residential housing is west across Tyler Road and to the northwest of the application area. The general area, however, is predominately made up of retail and commercial uses. The suitability of the subject property for the uses to which it has been restricted: The site can be used for automotive repair as currently zoned. The "LC" district permits a wide range of retail and office uses. The applicant can operate an automotive repair business in the "LC" district and conduct outdoor vehicle and equipment sales with a Conditional Use. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" General Commercial zoning would allow a wider range of uses, including outdoor vehicle and equipment sales, "vehicle repair, general" and outside storage. Approval of the request plus the proposed Protective Overlay would not negatively impact nearby businesses. The closest residential housing is northwest and a considerable distance from the application area. The area is predominately made up of retail and commercial uses. This site is ripe for development especially with improvements being made to nearby West Kellogg. Outdoor vehicle and equipment sales have already been approved on nearby property. Approval of the request as recommended should not have any detrimental affects on nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. There are several auto-related uses currently along West Kellogg. Approval of this request would not introduce any uses that currently does not exist in this general location and will be in conformance with adopted plans. Impact of the proposed development on community facilities: None identified in as much as the site is already zoned "LC" Limited Commercial, platted and the recommended conditions limit the range of uses permitted.) I move that we recommend to the governing body that the request be approved, subject to the following provisions of a Protective Overlay).

1. Permitted uses are restricted to those uses permitted by-right in the "LC" Limited Commercial district plus "vehicle repair, general" and vehicle sales, outdoor (passenger vehicles only).
2. No outside storage of salvaged vehicles or parts shall be permitted in conjunction with vehicle sales.
3. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
4. No portable signs are permitted. An off-site sign not exceeding 300 square feet may be permitted.
5. Exterior audio systems shall be prohibited, except for a restaurant menu board.
6. There shall be no elevated platforms for the display of vehicles.
7. Any fencing of the outdoor vehicle sales shall be wrought iron or similar materials that are approved by the Planning Director.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with vehicle sales.
9. All vehicles that are not complete and visually intact are to be screened from view from adjacent and adjoining properties and from ground level view along abutting streets. Screening material shall be of screening material approved by the Unified Zoning Code.
10. The development of this property shall proceed in accordance with these conditions, any substantial deviation from these conditions as determined by the Zoning Administrator and the Director of Planning shall constitute a violation of the building permit authorizing construction of the proposed development.

WARREN moved **MCKAY** seconded the motion, and it carried unanimously (12-0).

9. **ZON2001-00005** – Ridge Port Group, LLC c/o Rob Ramseyer (Owner/Applicant); Baughman Company, PA c/o Terry Smythe (Agent) request a zone change from "SF-6" Single-Family Residential to "GO" General Office on property described as:

That part of the Northwest Quarter of Section 34, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the Northeast corner of said Northwest Quarter; thence South 00 degrees 31'10" West along the East line of said Northwest Quarter, 1623.17 feet; thence North 90 degrees 00'00" West, 918.71 feet to a point on the Southeasterly line of Reserve "B", Ridge Port North 2nd Addition, Wichita, Sedgwick County, Kansas; thence North 45 degrees 26'22" East along the Southeasterly line of said Reserve "B" and the Southeasterly line of Lot 1 in said Ridge Port North 2nd Addition, 272.53 feet to a corner of said Lot 1; thence North 00 degrees 26'22" East along the East line of said Lot 1, 516.79 feet to a point 915.126 feet South of the north line of said Northwest Quarter as measured parallel with the West line of said Northwest Quarter; thence North 90 degrees 00'00" East parallel with the North line of said Northwest Quarter, 378.00 feet; thence North 00 degrees 26'22" East parallel with the West line of said Northwest Quarter, 915.126 feet to a point on the North line of said Northwest Quarter; thence North 90 degrees 00'00" East along the North line of said Northwest Quarter, 350.27 feet to the point of beginning, all being subject to road rights-of-way of record for 37th Street North. Generally located south of 37th Street and approximately ½ mile east of Ridge Road.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant requests a zone change from "SF-6" Single-Family Residential to "GO" General Office on a 19.17 acre unplatted tract located south of 37th Street North and approximately ½ mile east of Ridge Road. The applicant indicates that the "GO" General Office zoning is requested to permit future development of the site with office uses. The applicant proposes to plat the subject property as part of the Ridge Port North 4th Addition, which is scheduled to be heard by the Subdivision Committee at their March 1, 2001 hearing.

The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties north and east of the site are zoned "SF-20" Single-Family Residential and are used for agriculture. The property northeast of the site is zoned "SF-20" Single-Family Residential and is used for sand and gravel extraction. The properties south and southeast of the site are zoned "SF-6" Single-Family Residential and are proposed for the future development of single-family residences in the Ridge Port North 4th Addition. Most of the property west of the site is zoned "GO" General Office and is currently being developed with medical offices. The property west of the northern portion the site is zoned "SF-6" Single-Family Residential and is developed with a farm-related residence and outbuildings.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Agriculture; sand and gravel extraction
SOUTH:	"SF-6"	Undeveloped
EAST:	"SF-20"	Agriculture
WEST:	"SF-6" & "GO"	Farm-related residence; developing medical offices

PUBLIC SERVICES: The site has access to 37th Street North, an unpaved section-line road. There are no current traffic volumes available and the 2030 Transportation Plan does not provide an estimate of future traffic volumes for this segment of 37th Street North. Planning staff estimates that traffic volumes on 37th Street North will be less than 5,000 vehicles per day in 2030. Planning staff will recommend that the applicant guarantee paved access to their property at the time of platting. Other off-site improvements related to traffic, drainage, etc. also may be recommended at the time of platting. Public water and sewer service are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Office" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office zoning districts. As proposed, the request for "GO" General Office zoning on the site conforms to the Land Use Guide.

RECOMMENDATION: Planning staff finds that the subject property is appropriate for office development; however, the "GO" General Office zoning district also permits the highest density (75.1 units per acre) of multi-family development. In the opinion of planning staff, the site does not have sufficient access and is not appropriately located in relation to surrounding properties for very high density multi-family development. Therefore, planning staff is recommending a protective overlay to limit the density of multi-family development on the site. Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to platting within one year and subject to the following provision of a Protective Overlay District:

1. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties north and east of the site are zoned "SF-20" Single-Family Residential and are used for agriculture. The property northeast of the site is zoned "SF-20" Single-Family Residential and is used for sand and gravel extraction. The properties south and southeast of the site are zoned "SF-6" Single-Family Residential and are proposed for the future development of single-family residences in the Ridge Port North 4th Addition. Most of the property west of the site is zoned "GO" General Office and is currently being developed with medical offices. The property west of the northern portion the site is zoned "SF-6" Single-Family Residential and is developed with a farm-related residence and outbuildings.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. The site is suitable for single-family residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Office" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office zoning districts. As proposed, the request for "GO" General Office zoning conforms to the Land Use Guide.
5. Impact of the proposed development on community facilities: Impacts on community facilities will be addressed at the time of platting.

KNEBEL "This request is on approximately 19 acres located along 37th Street North, east of Ridge Road. The applicant indicates that the request has been submitted to permit future office development on the site. The applicant has also submitted a plat that includes this property that will be heard by the Subdivision Committee at their next hearing. The property is currently agricultural use, and surrounding the site is primarily agricultural uses. There is a very large area of office zoning that this would be adjoining. The applicant in this case is also the applicant of the previous office zoning.

Staff is recommending that the request be approved. We are recommending that the density of residential development on this site be limited to 'MF-18' zoning district density rather than the 75 units per acre that is permitted in the General Office district. We are also recommending that the site be platted, and the applicant has actually already undertaken that. With that, I will be available for questions."

MCKAY "Why, on the restrictions for Multi-Family are you bypassing 'MF-29'?"

KNEBEL "No particular reason other than the fact that 'MF-18' has been what we have been recommending for other General Office sites recently."

HENTZEN "Did you say in General Office now you can have 75 units?"

KNEBEL "Yes, that is correct. Seventy-five units per acre is the maximum residential density in 'GO'."

HENTZEN "Okay. And you are recommending here that it be limited to 17.4?"

KNEBEL "That is accurate, yes."

HENTZEN "Could I ask you why?"

KNEBEL "Like I said, it is just consistency with previous requests and recommendations from staff on those. Without having any sort of proposal in front of us to react to, there is the potential that you could put 29 units an acre in there and it possibly could work, but it is better to be a little cautious, I think, from our standpoint, than it is to provide the applicant with the ability to do something that we may not be wanting to see in this location."

DALE MILLER, Planning staff, "The other thing I might add is that I talked to an agent who indicated that that was pretty much the upper limit of what people were building in terms of the marketplace. Typically that was the density that people were going for because they want to remain nameless. He may never talk to me again, but that is what he indicated to me."

MICHAELIS "I would like to make a comment to that too, because we all talk about urban redevelopment and everything else. When you get into that, it equates to higher densities. When we come along and start taking a zoning that by right allows a certain density in cutting that down, we are kind of backing up. I just hate to see us keep changing requirements of zoning because you really don't know what you are going for when you go for it. That is my only comment."

OSBORNE-HOWES "Just a comment to that. I agree with you, but this isn't urban redevelopment."

WARREN "But it is arbitrary zoning. It's arbitrary when we just pick out a number."

OSBORNE-HOWES "I am not disagreeing with his comments, I am just saying that I wouldn't call this urban redevelopment."

PLATT "I would reiterate, too, that given the shape and site and the only outlet being on 37th Street, I would certainly not be interested in packing dense housing into something that can only have one way out."

KROUT "When we re-did the Zoning Ordinance back in 1996, there was considerable discussion about the General Office district, and everybody, I think, realized that it wasn't realistic to leave 75 units per acre for apartment density in the General Office district, but we weren't going to take away the right to build 75 units per acre for anybody who had General Office zoning. It was part of the principle that we weren't going to downzone property on a large-scale basis through re-writing the Zoning Code.

But there was also recognition that that was not realistic, and that we were going to be looking for restrictions on larger scale sites like this that were more reasonable, if someone was requesting General Office zoning."

MICHAELIS "Are there any further questions of staff? Thank you, Mr. Knebel. The applicant, please."

TERRY SMYTHE "Good afternoon. I am here on behalf of the applicant. We are in agreement with the staff comments. The issue of the density of the apartment option in "GO" General Office—when we first filed it, the applicant asked me if he should not be able to get the 'MF-29' like he got originally along Tyler. He is comfortable with the 'MF-18'. His preference would be 'MF-29', but he would agree with staff comments."

MICHAELIS "Are there any questions of the applicant? Okay. Is there anyone in the audience to speak in favor of this application? Is there anyone in the audience to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties north and east of the site are zoned "SF-20" Single-Family Residential and are used for agriculture. The property northeast of the site is zoned "SF-20" Single-Family Residential and is used for sand and gravel extraction. The properties south and southeast of the site are zoned "SF-6" Single-Family Residential and are proposed for the future development of single-family residences in the Ridge Port North 4th Addition. Most of the property west of the site is zoned "GO" General Office and is currently being developed with medical offices. The property west of the northern portion the site is zoned "SF-6" Single-Family Residential and is developed with a farm-related residence and outbuildings. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. The site is suitable for single-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Office" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office zoning districts. As proposed, the request for "GO" General Office zoning conforms to the Land Use Guide. Impact of the proposed development on community facilities: Impacts on community facilities will be addressed at the time of platting.) I move that we recommend to the governing body that the request be approved, subject to platting within one year and subject to the following provision of a Protective Overlay District:

1. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.

GAROFALO moved, **LOPEZ** seconded the motion, and it carried unanimously (12-0).

Item taken out of order:

11. **Case No. CON2001-00005** – Ron Weems (Owner); Brad Murray Rentals LLC and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris and Austin Miller PA (Agents) request a Conditional Use for a wireless communication facility on property described as:

A tract of land generally located in the Southeast Quarter of Section 7, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as: Commencing at the Northwest corner of the Southeast Quarter, thence East on the North line of said Southeast Quarter, a distance of 180 feet; thence South at right angles to the North line of said Southeast Quarter, a distance of 120 feet, to the Point of Beginning; thence continuing South, a distance of 60 feet; thence East, parallel with the North line of said Southeast Quarter, a distance of 60 feet; thence North at right angles to said North line of the Southeast Quarter, a distance of 60 feet; thence West, a distance of 60 feet, to the Point of Beginning. Generally located south of 35th Street South and east of Glenn.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached elevation rendering) by Brad Murray Rentals LLC for use by Cricket Communications, Inc. The proposed site is zoned "SF-6" Single-Family Residential. Wireless Communication Facilities over 65 feet in height in the "SF-6" Single-Family Residential zoning district may be permitted with a Conditional Use.

The applicant originally applied for a wireless communication facility near 31st Street South and Seneca; however, the request (CON2000-00049) was denied by the MAPC on November 9, 2000. The applicant indicates that this alternative site was selected based upon feedback received from citizens at the hearings on the previous request who indicated that they preferred a tower location near I-235 and Seneca over a tower location near 31st Street South and Seneca.

The proposed tower would be sited on a 3,600 square foot area located south of 35th Street South and east of Glenn. Access to the site is proposed to be via a 20-foot wide access and utility easement across city-owned drainage right-of-way. The applicant's site plan (attached) depicts a 60-foot by 60-foot compound with the tower located in the center of the compound and the ground-level equipment located in the eastern and western portions of the compound. The compound is shown as being enclosed by an six-foot high chain link fence with barbed wire. The site plan shows screening of the compound with six evergreen trees located north of the compound. The site plan also shows numerous existing trees around the compound to provide screening for the tower from nearby residential properties.

The applicant indicates that the proposed wireless communication is part of a planned initial build-out of a wireless phone system for Sedgwick and Butler counties by Cricket Communications, Inc. The applicant's justification for the request (attached) indicates that this site is necessary for Cricket Communications, Inc. to provide wireless phone coverage along I-235 and in southwest Wichita. The applicant indicates that no tall buildings or other structures in the vicinity can accommodate the applicant's communication needs.

The character of the surrounding area is residential with I-235 running east to west along the southern edge of the site. The nearest developed properties are located approximately 250 feet north of the site and are developed with single-family residences. The properties north, east, and west of the site are zoned "SF-6" Single-Family Residential and are developed with single-family residences, with the exception of the property to the east which is undeveloped. The property south of the site across I-235 is zoned "MH" and is developed with a manufactured home park.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Single-family residences
SOUTH:	"MH"	Manufactured home park
EAST:	"SF-6"	Undeveloped
WEST:	"SF-6"	Single-family residences

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to 35th Street South, an unpaved local street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1)

preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The applicant shall acquire an access and utility easement across the city-owned drainage right-of-way or, alternatively, shall receive approval for the vacation of the drainage right-of-way.
- D. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- F. A landscape plan shall be submitted for approval by the Planning Director that maintains the existing trees around the compound on the parent tract and provides shade trees to be planted and maintained every 30 feet along the northern boundary of the parent tract as near as possible to 35th Street South and densely planted evergreens to be planted and maintained along the north end of the compound.
- G. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airport Engineering for the City of Wichita prior to the issuance of a building permit.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
- J. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential with I-235 running east to west along the southern edge of the site. The nearest developed properties are located approximately 250 feet north of the site and are developed with single-family residences. The properties north, east, and west of the site are zoned "SF-6" Single-Family Residential and are developed with single-family residences, with the exception of the property to the east which is undeveloped. The property south of the site across I-235 is zoned "MH" and is developed with a manufactured home park.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential and is currently undeveloped. Wireless communication facilities in excess of 65 feet in height in the "SF-6" Single-Family Residential zoning district may be permitted as a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest developed properties nearby the site are single-family residences located approximately 250 feet to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the visual impact should be reduced by the landscaping required by the conditions of approval.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; by being placed in an area where trees obscure some of the facility; and by being screened through landscaping. The proposed wireless communication facility does not comply with the compatibility height standard of the Uniform Zoning Code since it is located less than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive; however, the applicant owns the adjoining property and it is undeveloped, so there should be no compatibility issues concerning the proposed wireless communication facility.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

PLATT "Mr. Chair, as I have in the past, I will step down from this item because I am part-owner in a building and on the Board of Directors that is actually leasing roof-top space to communication towers."

MICHAELIS "Let the record show that Dr. Platt is stepping down from this."

KNEBEL "This is a Conditional Use request to permit the construction of a 150-foot high monopole tower. The tower will be constructed by Brad Murray Rentals and used initially by Cricket Communications. The proposed site, as you can see, is zoned 'SF-6' Single-Family. A wireless communication facility of this type is permitted up to 65 feet in 'SF-6' and requires a Conditional Use to exceed that height. The applicant originally applied for a tower to serve this particular area near 31st Street South and Seneca. That request was denied by this board back in November. At that hearing, the citizens in the area had indicated that they preferred this site along the highway, which was not as near their residences, so the applicant listened to that feedback and selected this site.

The proposed use is located about 250 feet from the nearest properties that are developed. Those properties are developed with single-family residences. This is the site itself and you can see the residences to the left-hand side of the picture, and the right-hand side and then you can see them there north of the site. The applicant is indicating, and you can see the big red and purple hole in their system that they are attempting to fill and you can see that this does provide much of that service. It still leaves some gap out in here (indicating), but this is rural area that is undeveloped at this point. The Planning staff is recommending that the request be approved. We have listed a number of conditions—none of them are unusual, with the exception of Condition No. C.

This particular property contains a drainage dedication. It is a little unclear as to the ownership whether it is the city or the township, but there is some property here that needs to be traversed to be an access easement of some form or fashion. Actually, it is not used as drainage. The drainage actually comes down and goes underneath the Interstate in this direction (indicating), so it was something that was planned but never implemented. So we are recommending that either an easement be created or even the dedication of the right-of-way be vacated in order to provide the needed access to the property. With that, I will make myself available for questions."

MICHAELIS "Are there any questions of staff? Thank you, Scott. May we hear from the applicant, please?"

GREG FERRIS "I am here representing the applicant. Mr. Chair and members of the Planning Commission, I want you to watch the clock. I concur with the findings of staff; we concur with all of the recommendations and would appreciate your support. I would be glad to answer any questions."

MICHAELIS "That is a record! Are there any questions of the applicant? Thank you, Mr. Ferris. Is there anyone in the audience to speak in favor of this application? Is there anyone to speak in opposition to this application. Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the surrounding area is residential with I-235 running east to west along the southern edge of the site. The nearest developed properties are located approximately 250 feet north of the site and are developed with single-family residences. The properties north, east, and west of the site are zoned "SF-6" Single-Family Residential and are developed with single-family residences, with the exception of the property to the east which is undeveloped. The property south of the site across I-235 is zoned "MH" and is developed with a manufactured home park. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential and is currently undeveloped. Wireless communication facilities in excess of 65 feet in height in the "SF-6" Single-Family Residential zoning district may be permitted as a Conditional Use. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest developed properties nearby the site are single-family residences located approximately 250 feet to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the visual impact should be reduced by the landscaping required by the conditions of approval. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; by being placed in an area where trees obscure some of the facility; and by being screened through landscaping. The proposed wireless communication facility does not comply with the compatibility height standard of the Uniform Zoning Code since it is located less than 150 feet from the nearest lot line of property zoned "TF-3" or more

restrictive; however, the applicant owns the adjoining property and it is undeveloped, so there should be no compatibility issues concerning the proposed wireless communication facility. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The applicant shall acquire an access and utility easement across the city-owned drainage right-of-way or, alternatively, shall receive approval for the vacation of the drainage right-of-way.
- D. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- F. A landscape plan shall be submitted for approval by the Planning Director that maintains the existing trees around the compound on the parent tract and provides shade trees to be planted and maintained every 30 feet along the northern boundary of the parent tract as near as possible to 35th Street South and densely planted evergreens to be planted and maintained along the north end of the compound.
- G. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airport Engineering for the City of Wichita prior to the issuance of a building permit.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
- J. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- K. Any violation of the conditions of approval shall render the Conditional Use null and void.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried unanimously (12-0).

Item taken out of order:

- 10a. CUP2001-00005** – KTP Center Addition Community Unit Plan – K.T. Partnership and Todd Parker (owner); Keith Parker (agent); Savoy, Ruggles & Bohm, c/o Randy Johnson (agent) request the creation of KTP Center Addition C.U.P.;

The SE 1/4 of Sec. 15, Twp. 27-S, R-2E of the 6th P.M., Sedgwick County, Kansas, lying west of the K-96 Bypass right-of-way as condemned in Case No. 88C-4045, except the north 1643 feet thereof, and except the right-of-way for Central Avenue and 127th Street East, described as that part of the SE 1/4 of Sec. 15, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the S.E. Corner thereof; thence S 89 degrees 02'54" W, along the south line of said SE 1/4, 1791.56 feet to a point 859.88 feet east of the S.W. Corner of said SE 1/4; thence N 00 degrees 57'32" W parallel with the west line of said SE 1/4, 60 feet; thence N 89 degrees 02'54" E 1441.55 feet to a point 350 feet west of the east line of said SE 1/4; thence N 80 degrees 37'03" E, 101.12 feet to a point 75 feet north of the south line of said SE 1/4 and 250 feet west of the east line of said SE 1/4; thence N 89 degrees 02'54" E, 175 feet to a point 75 feet west of the east line of said SE 1/4; thence N 00 degrees 57'30" W, parallel with the east line of said SE 1/4, 175 feet; thence N 13 degrees 04'41" E, 103.08 feet to a point 50 feet west of the east line of said SE 1/4 and 350 feet north of the south line of said SE 1/4; thence N 00 degrees 57'30" W, parallel with the east line of said SE 1/4, 48.96 feet to the westerly line of the K-96 Bypass right-of-way as condemned in Case No. 88C-4045; thence N 89 degrees 02'30" E, 50 feet to the east line of said SE 1/4; thence S 00 57'30" E, along the east line of said SE 1/4, 398.97 feet to the place of beginning, and except that part of the SE 1/4 of Sec. 15, Twp. 27-S, R-2E of the 6th P.M., Sedgwick County, Kansas described as commencing at the S.E. Corner of said SE 1/4; thence S 89 degrees 02'54" W, along the south line of said SE 1/4, 75 feet; thence N 00 degrees 57'30" W, parallel with the east line of said SE 1/4, 75 feet for a place of beginning; thence N 00 degrees 57'30" W, 175 feet; thence S 89 degrees 02'54" W, 200 feet; thence S 00 degrees 57'30" E, 178.75 feet; thence N 80 degrees 31'03" E, 25.28 feet; thence N 89 degrees 02'54" E, 175 feet to the place of beginning, and except that part of the SE 1/4 of Sec. 15, Twp. 27S, R2E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.E. Corner of said SE 1/4; thence S 89 degrees 02'54" W, along the south line of said SE 1/4, 75 feet; thence N 00 degrees 57'30" W, parallel with the east line of said SE 1/4, 75 feet for a place of beginning; thence N 00 degrees 57'30" W, 175 feet; thence S 89 degrees 02'54" W 200 feet; thence S 00 57'30" E, 178.75 feet; thence N 80 degrees 31'03" E, 25.28 feet; thence N 89 degrees 02'54" E, 175 feet to the place of beginning; and

- 10b. **ZON2001-00009** – K.T. Partnership and Todd Parker (owner); Keith Parker (agent); Savoy, Ruggles & Bohm, c/o Randy Johnson (agent) request a zone change from “SF-20” Single-Family Residential to “GO” General Office and “LC” Limited Commercial on property described as:

“LC” ZONING DESCRIPTION

That part of the SE 1/4 of Sec. 15, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.E. Corner of said SE 1/4; thence S 89 degrees 02'54"W, along the south line of said SE 1/4, 600 feet; thence N 00 degrees 57'30"E, parallel with the east line of said SE 1/4, 60 feet for a place of beginning; thence S 89 degrees 02'54"W, 790.02 feet; thence N 00 degrees 57'06"W, 348.53 feet; thence N 60 degrees 45' 25"E, 153.38 feet; thence N 00 degrees 49'49"W, 82.38 feet; thence S 89 degrees 10'11"W, 105.11 feet; thence S 33 degrees 30'16"W, 121.28 feet; thence S 54 degrees 56'18"W, 109.53 feet; thence S 17 degrees 09'28"W, 118.51 feet; thence S 89 degrees 02'54"W, 129.03 feet; thence N 24 degrees 00'27"W, 102.57 feet; thence N 59 degrees 46'53"W, 166.30 feet; thence N 07 degrees 17'12"W, 332.51 feet; thence N 00 degrees 49'49"W, 154.29 feet to a point on the south line of the north 1643 feet of said SE 1/4; thence N 89 degrees 10'11"E, along the south line of the north 1643 feet of said SE 1/4, 1251.18 feet to the westerly line of the K-96 Bypass right-of-way as condemned in Case No. 88C 4045; thence S 45 degrees 07'33"E, along said westerly line, 146.95 feet; thence S 48 degrees 35'43"E, and continuing along said westerly line, 452.15 feet to a point 600 feet north of the south line of said SE 1/4; thence S 89 degrees 02'54"W, 329.52 feet to a point 600 feet west of the east line of said SE 1/4; thence S 00 degrees 57'30"E, parallel with the east line of said SE 1/4, 540 feet to the place of beginning. AREA 1,089,400.2 Square Feet 25.01 Acres.

“GO” ZONING DESCRIPTION

That part of the SE 1/4 of Sec. 15, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.W. Corner of said SE 1/4; thence N 00 degrees 57'32"W, along the west line of said SE 1/4, 60 feet for a place of beginning; thence N 00 degrees 57'32"W, 954.24 feet to a point on the south line of the north 1643 feet of said SE 1/4; thence N 89 degrees 10'11"E, along the south line of the north 1643 feet of said SE 1/4, 569.94 feet; thence S 00 degrees 49'49"E, 259.72 feet; thence S 32 degrees 48'38"W, 88.73 feet; thence S 10 degrees 02'20"W, 96.31 feet; thence S 14 degrees 45'02"E, 303.58 feet; thence S 27 degrees 24'41"E, 84.79 feet; thence S 70 degrees 09'31"E, 90.02 feet; thence N 89 degrees 02'54"E, parallel with the south line of said SE 1/4, 177.22 feet; thence S 00 degrees 57'06"E, 122.32 feet to a point 60 feet north of the south line of said SE 1/4; thence S 89 degrees 02'54"W, 873.16 feet to the place of beginning. AREA 568,045.2 Square Feet 13.04 Acres. Generally located on the northwest corner of 127th Street East and Central Avenue.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting the creation of a Community Unit Plan for the northwest corner of 127th Street East and E. Central Avenue, with the eastern portion of the C.U.P. being zoned “LC” Limited Commercial and the western portion being “GO” General Office. A lake separates the two areas. The corner nearest the intersection of Center and 127th Street East already is zoned “LC”. The remaining tract is zoned “SF-6” for the 20 acres in the City of Wichita and “SF-20” for the 25 acres in the unincorporated area being requested for annexation.

The proposed C.U.P. has 14 parcels plus a lake, which is the focal point of the development. Parcel 7 (13.63 acres) is the major parcel for commercial development and is located near the center of the tract. It is ringed by a series of seven smaller parcels proposed for “LC” zoning ranging in size from 0.98 acres to 1.68 acres along Central and K-96. To the west, Parcel 5 (3.95 acres) is proposed for “LC”. It is buffered on the north by Parcel 6 (3.21 acres), which is a “GO” parcel and separates the commercial uses from the proposed residential subdivision to the north. Parcels 1-4 are located west of the lake and range in size from 1.64 to 4.35 acres. These parcels are proposed for “GO” zoning with residential style architectural character.

Proposed uses are all uses permitted in the “GO” zoning district for Parcels 1-4, and Parcel 6, and all permitted uses in the “LC” zoning district for Parcels 5 and 7-14 except for adult entertainment establishments, mining or quarrying, rock crushing, solid waste incinerators, oil and gas drilling, recreational vehicle campgrounds, and asphalt concrete plants.

The C.U.P. included a 30 percent maximum building coverage and 35 percent floor area ratio for each parcel. Building heights were generally 40 feet; however, the three parcels along K-96 were proposed for 75 feet and the interior office parcel near the residential subdivision was reduced to 35 feet. Setbacks were proposed to be as allowed in the “GO” and “LC” district, however, this is not as stringent as setback requirements for C.U.P.s. No masonry screening wall was proposed where the adjacent property is zoned for residential use. A revised C.U.P. drawing is being prepared to reduce the floor area ratios, increase the setbacks, and reduce the height of the parcels to 35 feet except for those along K-96.

The C.U.P. provides for a site circulation plan, a pedestrian plan to connect buildings to the sidewalk at Central and 127th, and landscaping per the Landscape Ordinance.

The applicant proposes that Parcels 1-4 and 8 share residential style architecture, which might be typically defined as including brick, masonry, wood or composite siding, a double-pitched roof, often with hipped or gabled ends, and generally with a minimum vertical rise of greater than 4 inches for every twelve inches. Parcels 5, 7, and 9-14 are to be

developed with a consistent architectural character, color, texture and the same predominant exterior building materials. There is no requirement to use predominately earth-tone colors or consistent lighting elements.

The applicant proposes that all signs be in accordance with the Sign Code of the City of Wichita, with maximum square footage of 0.8 feet per foot of lineal frontage on Central and 127th, and be spaced a minimum of 150 feet apart. It does not affirmatively request signage along K-96, which would be allowed by the Sign Code unless prohibited by the C.U.P. The applicant has requested three ground or pole signs at 35 feet in height, with the remaining signs being 20 feet in height, but is willing to reduce this to 20 feet in height for all signs except one that would be permitted at 30 feet in height. The following signs would not be permitted by the C.U.P.: flashing (except time, temperature and other public service messages), rotating and moving signs; portable signs; off-site signs; window display signs with more than 25 percent of the window area.

The intersection of 127th and Central near the K-96 underpass is developing with commercial and institutional uses, including a service station, East Pointe Church of Christ, and The Vyne east of K-96, an assisted living facility. The southwest corner of 127th and Central is approved for a smaller 8-acre commercial development zoned LC (DP-247 127th Retail Center C.U.P.), and the southeast corner is part of the large development approved and being platted, DP-248 Meadowland C.U.P. This portion of the Meadowland is approved as "OW" Office Warehouse zoning.

South of Central near the mid-mile location at Jackson Heights, a real estate office and a hotel have been developed during the past year. The remaining area south of Central is developed with scattered residences. The property to the north of the proposed development has been preliminary platted for residential use as Balthrop 4th Addition. It should be noted that this subdivision has a long street, Tipperary, that is 3/4 mile in length from its terminus to Central or Greenwich. To avoid this long dead-end, it was intended to connect to Central through this development.

CASE HISTORY: The area is unplatted. The western 20 acres were annexed by the City of Wichita in 1998.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	Vacant (preliminary platted as Balthrop 4 th Addition)
SOUTH: "LC"; "SF-6"; "GO"	Vacant, residential, real estate office, hotel
EAST: "LC"; "SF-6"	Service station, K-96, the Vyne
WEST: "SF-6"	Large lot residential

PUBLIC SERVICES: Municipal water service is available. Sewer service is available from the 4 Mile Creek Sewer District. The property is located along two major arterial streets, Central and 127th. Central and 127th are five-lane arterial streets abutting most of the subject tract. Average daily traffic on Central was 5,349 vehicles in 1997; this is projected to increase to 13,926 in 2030. Average daily traffic on 127th was 1,595 vehicles in 1997; this is projected to increase to 8,761 in 2030. These projections did not include the magnitude of the traffic growth that would result from this proposed development.

CONFORMANCE TO PLANS/POLICIES:

The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area for commercial use at the corner and residential use for the remainder of the tract. The commercial locational guidelines recommend that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. Office locational guidelines recommend location adjacent to arterial streets; local, service-oriented offices to be incorporated with neighborhood/community scale commercial development; and low-density office be used as a transitional land use between residential uses and higher intensity uses.

RECOMMENDATION:

The proposed application area is a good potential commercial site due to its location at the intersection of East Central and 127th, and its proximity to an interchange on K-96. The 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the intersection for commercial development. The 1999 Update also shows the area south of Central for office development. The bulk of the site, however, is shown for residential use, and the scale of the proposed development plus some of the C.U.P. details present some issues to resolve. In particular, the subdivision to the north, Balthrop 4th Addition, is dependent on obtaining access through this tract to Central, yet the plan only provides emergency access. Further the volume of potential development, as requested, is over 400,000 square feet of retail/commercial space and 245,000 square feet of office. As a point of reference, the new discount store under construction at NewMarket Square is 200,000 square feet. The more likely scenario for this development would be perhaps a supermarket, and some restaurants. Still, this would generate a sizable amount of traffic and impact on the surrounding area.

The recommendations contained herein are designed to reduce the scale and impact of the development and make it more like the developments already approved nearby. Suggested limitations in sign height are the same as the existing requirements for DP-247 and the nearby office uses. Reductions in gross floor area and height would reduce the density and potential traffic impact of the project. The proposed residential architectural style for the office parcels is consistent with the requirements of the other office developments at the mid-mile location. This architectural feature, coupled with the lake as the focal point should make an attractive office environment that serves as a transition to residential uses to the west and north.

Based on this, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2001-00009) to "GO" General Office for Parcels 1-4 and 6, and "LC" Limited Commercial for Parcels 5 and 7-14, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-255), subject to the following conditions:
 1. A collector connection shall be provided with Balthrop 4th Addition and the private circulator road serving Parcels 1-6.
 2. Access openings on Central shall be separated by a minimum of 350 feet and offset from the streets and office and commercial openings south of Central by a minimum of 150 feet, with one opening positioned at least 200 feet east of Jackson Height and the elimination of the minor access to Parcel 10.
 3. Transportation improvements shall include a center left-turn lane along Central for those segments where it is not already constructed and a right-turn decel lane to serve all openings.
 4. Gross floor area shall be reduced to 20 % for Parcels 1-4 and 6, and 30 % for Parcels 5 and 7-14.
 5. Maximum building heights shall be reduced to 35 feet for all parcels except 12-14 that shall be permitted a maximum height of 75 feet.
 6. General Provisions #4 and #5 shall be revised to state that building setbacks shall be 35 feet along exterior property lines per Article III, Sec. III-C.2.b(2)(a) of the Unified Zoning Code.
 7. General Provision #7 shall be revised to add that the buildings shall be predominately earth-tone colors, with vivid colors limited to incidental accent. The parcels with residential style architecture shall employ materials and design features similar to residential uses, including use of brick, masonry, wood or composite siding; and a double-pitched roof with hipped or gabled ends with a minimum vertical rise of 4 inches for every twelve inches. Parking lots shall share similar or consistent lighting elements.
 8. General Provision #6 shall be revised to restrict signs to monument style and a maximum of 20 feet in height, except one sign on Central that shall be permitted to be 30 feet in height.
 9. General Provision #9 shall be revised to require a buffer at 1 and ½ times the rate specified in the Landscape Ordinance for the northern property line of Parcel 7 only.
 10. Parking shall be in accordance with Article IV of the Unified Zoning Code.
 11. A six (6) to eight (8) screening wall of brick, masonry, architectural tile or similar materials (not including wood or woven wire wall shall be constructed along property lines of the C.U.P. in conformance with the provisions of Article III, Sec. III-C.2.b(2)(d) of the Unified Zoning Code. This solid masonry wall shall be constructed of a pattern and color that is consistent with the building walls.
 12. The parcel descriptions shall be clarified to indicate that Conditional Uses shall be allowed only if specifically reviewed and approved by amendment to the C.U.P.
 13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 14. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 15. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 16. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-255) includes special conditions for development on this property.
 17. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the east, southeast, and southwest at the intersection of 127th and Central is zoned "LC", although most is still undeveloped except for a service station.

Offices and a hotel have been developed to the southwest near Jackson Heights. The property to the north is proposed for single-family residential use. The single-family development along Central is sparsely settled and probably will transition to the office type uses recommended by the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan.

2. The suitability of the subject property for the uses to which it has been restricted: A portion of the property is already zoned "LC" Limited Commercial and could be developed as a C.U.P. The 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows a slightly larger area than the current zoning for commercial use. For the western portion of the tract, the drainage, although not part of a designated flood plain, makes residential development more difficult.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to commercial use could impact the residential subdivision to the north. The residential style architecture for the office development, plus screening and buffering along the commercial tract, should minimize detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is in conformance with the Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan near 127th Street East. While the remaining area is shown for residential use rather than commercial and office, it may be difficult to develop in this manner due to the presence of the lake and other environmental concerns. Further, the property along the southern side of Central across from the tract is shown as commercial and office rather than residential. The request, as recommended by staff, does conform with the commercial and office locational guidelines of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan.
5. Impact of the proposed development on community facilities: Traffic increases anticipated by the new commercial development would be substantial, although the arterial streets already have been widened to five-lane status along much of the frontage. The applicant is requested to extend the left-turn lane and add a right-turn decel lane for access points. The collector connection to Balthrop 4th Addition will improve traffic circulation in the vicinity.

GOLTRY "Some of this existing property is zoned commercial already, 'LC', but not much of it. (Indicating) This is already in the City limits, this is still in the County. This case is being processed as a city zone case. That means that prior to this going forward to the City Council for final action, there must be the annexation request received and processed to complete that first. Otherwise, the City Council can't really take action on the zoning case.

This is a 51-acre tract, a pretty good sized tract of land. The general development plan concentrates office uses on this portion with the centerpiece of a lake. The property to the north is scheduled for single-family residences. This is also an office tract. This little interior one is shown, actually, as 'LC' Limited Commercial, as is the large tract for some, perhaps, some shopping center or grocery store-type tenant with some out parcels, and then maybe the idea of some nice, perhaps office towers along K-96, from what we understand from the applicant.

As I said, it is a pretty large development, 51 acres. Normally when we have developments of this size, oftentimes we ask for traffic studies. In this case, we did not request a separate traffic study because most of the improvements at Central have already been completed. It has been widened to a four-lane arterial with five lanes at the intersection.

Because I know that you and I have all been here today for a long time, we will cut to the chase on what some of the issues are with this case. There is a lake area and a wooded area; a nice looking site. The corner parcel is owned separately, but beyond that is part of the Lusk property (DP-248). The site directly across from the Conoco station is another small, I think 8-acre CUP that I think you approved about a year ago. We had the illustrious name of the 127th Street Retail Center (DP 247), but now I see it being marketed as Crestview Plaza.

I think a couple of the issues, that I have highlighted in the staff report, are important. One is the Balthrop Addition to the north is dependent on access through this tract to be able to get more directly to Central, particularly for eastbound traffic. This is an important issue for us, and I have called for, in the recommendations, a collector connection. Recommendation No. 1 says 'a collector connection shall be provided with Balthrop 4th.' The condition of the Balthrop subdivision plat, when it was approved was that there be at least emergency access provided and there is a platted road, Woodridge, that connects more toward the commercial area of Mr. Parker's tract. I believe we were looking at a possible location more on the office side, which probably works better for the applicant and I think certainly works very well from a design standpoint, of connecting between Central and Balthrop. It is on Tipperary Court. That is a long cul-de-sac. It is ¾ of a mile from the end of the cul-de-sac of Tipperary until you get to Central by either going all the way out to the street by Saturn and go down by the Saturn to head straight to Central, or you can keep going on your way and eventually get to Greenwich. I think this is a fairly significant issue.

I can say that we have worked with the applicant. He has been very good to work with on terms of access openings. But we are still having some trouble on that. This is a CUP which I think still needs 'put to bed'. It is just not quite all jelled there because of the things going on with the road network and the access openings. So the recommendation is not to adopt certain locations, but to go with the strategy of trying to keep minimum separations and offsets.

I think the applicant is mostly in agreement with the rest of the recommendations and terms of sizes and height restrictions, except for perhaps on the gross floor in the office parcels. He is here to speak to that. Jamsheed Mehta is

here to talk about any transportation issues if we want to talk more fully about the whole idea of connecting the roads and the network. I will stand for questions."

GAROFALO "How many accesses have been proposed, and where are they?"

GOLTRY (Indicating) "There is a major opening here. This is Garnett, (it is a street to the south)--they would like an opening directly across the street from it. They also have asked for one here (indicating), so that would be three. They also requested a small opening on the end of this larger parcel, plus an access road along in this area (between Parcels 1/3 and 2/4). This access road connects up with where it looks like it could be a good connection to the Balthrop IV. If you can see this, this is where the old road stub is for the Balthrop IV. It dead-ends right to this parcel but then it more particularly takes you right out to the commercial. It is a better idea, perhaps, to head toward this General Office area and try to sweep the road along that way. So altogether there are 5; they are asking for 5."

GAROFALO "Is staff going along with that at this point?"

GOLTRY (Indicating) "Staff feels that this access opening is unnecessary (pointing to across from Garnett); that there is one right here (indicating) across the street from the one on the south of 127th Street Retail Center and would like to see further separation instead of having them so closely spaced. You can access (indicating) this parcel (Parcel 11) directly from here and then you have one just barely over the line in here that could access to that parcel, (Parcel 10) too. So there would be joint access. Parcels 10 and 11 could basically share on one that wouldn't be on the parcel line, but very close to it."

MICHAELIS "Are there any further questions of staff? All right, thank you, Ms. Goltry. Could we hear from the applicant, please?"

KEITH PARKER "Mr. Chair, members of the Commission, I am appearing on behalf of the applicant. I personally have been involved with this tract for almost 30 years. I own the 20 acres that has the larger portion of the lakes on it. We recently, in 1996, purchased the remainder from the County. We worked with staff; they have 17 recommendations, I guess and by and large, we are in agreement. I received these notes like a week ago Saturday. The collector street was kind of a surprise to us. Now, we have worked with the Ritchies, who own the property immediately north. Their property borders K-96 Highway, cuts through the diagonal, and we have agreed to accept their drainage through here so that they don't have to have any retention, and we have also agreed to give them the emergency access that was asked at the Subdivision Committee. We think that probably better served through a 30 foot access road here that serves these office sites.

If you will recall the Magdalen situation, this ground has some environmental issues involved with it and the idea of residential construction out here is just pretty near nil. We have planned a large food retailer in this area, and we have shown to two different individuals that have expressed interest. This tract over here (indicating) borders K-96 highway. We would expect a small office or retail, or we set it up so that if someone wanted to build like a 4 or 5 story tower in this area, he would have to buy all of this and would usurp the ground or the land in that area. We think that that is an appropriate use. We hope that happens and it would compliment this village concept.

There is about 8 acres in here (indicating) that are comprised of two lakes here with a little connection. There is another lake up here (indicating). We have a pedestrian walkway through here, and we have reserved enough ground to make this circulation for pedestrians and for the use of the general area. The collector street, according to Mr. Wiley—who I thought might be here because he is the planner for the Ritchies—this will serve 70 lots in this area up here. There are going to be 70 lots, and that is it. The ground, as you can see on your staff report, is cut off by K-96, so there won't be any other residential development in that area. We would ask that the Commission approve an emergency access to the Balthrop property and eliminate the requirement for a collector. In addition, a 70-foot right-of-way along here would almost make these two tracts non-usable (indicating).

On Item No. 2 in the staff comments, they talked about the access points along Central again, and in earlier meetings I was asked to line these openings up. There is one right here (indicating) where an existing shopping center is, and we lined it up. We lined this access point here (indicating), and we have a major entrance right here to the shopping area. Then there is one asked for in the corner of this office site. Then there is a major entryway to the office area in this location. Five openings. This tract is 2,500 feet long. It is half a mile from the intersection of 127th Street to the half-mile line. Some of the other CUPs that have been approved in this area of 13th and Greenwich, have 9 openings on 13th Street and 1,800 feet, so I don't think we are asking for a great deal here.

On item No. 3, transportation, we have no problems. On Item No. 4, the staff asked for a reduction in the allowable floor area in our office area to 20%. That is almost half of 35%; again, the Lusk CUP, the one at 13th, the one across the street all have 35% floor area ratios. Twenty per cent is too much. I have reduced the commercial to 30%, and I would agree to 30% in the office area. So we would ask for that change.

Article No. 7 talked about the colors of the buildings and the size and the bricks and the hips on the roofs. I have been an architect for almost 40 years in this town and I kind of object to people telling me how to draw the buildings, I guess, but we will go along with that. On the residential character, we are planning a village concept. We have spent the money to allocate this land for pedestrian uses out there. We think this will be a compatible village with what is happening in the area. A quality, high-end situation. Hopefully, the buildings will represent that.

Article No. 8 in the staff comments has to do with signing. We reduced our signing height to 20 feet in general with the exception of one project sign or shopping center sign at the east Central location at the main entrance there. We had originally asked for three; two along Central and one at the entrance on 127th Street. I would ask that the shopping center or the project location sign be granted here (indicating) and along Central. Again, we will take a reduced height of 30 feet.

Other than that, I don't believe I have any other comments. We have reduced the building height per the request to 35 feet. We have reduced our density and our signage requirements. I would ask for your approval with those comments. I am here to answer any questions."

GAROFALO "On Item No. 5, in relation to what you just said, does that include 12, 13 and 14?"

PARKER "On items 12, 13 and 14, I think we are in agreement with staff, and that is these tracts right here (that border K-96 Highway). The idea again, being, that if someone wanted to come in there and put a 5-story building at 12 feet per story, that is 72 feet, plus some walls or elevator pits, or whatever. But if they did, and assuming that a 10,000 square foot floor area, which is a very economical and very efficient number, they would use all of this ground here for that one building."

MICHAELIS "Are there any further questions? Thank you, Mr. Parker. Is there anyone in the audience to speak in favor of this application? Is there anyone in the audience to speak in opposition? If not, we will bring it back to the Commission."

OSBORNE-HOWES "Just a comment. It sounds like there are still lots of issues between the applicant and the staff. Maybe they aren't major, and maybe they are, but I am just wondering if the applicant and staff ought to have another go at it before we make a decision."

GAROFALO "I guess maybe I didn't hear what he was talking about, but the connector connection, can you come up and explain that again? Did you say you wanted to eliminate the collector connection?"

PARKER "Yes. We would ask that a collector street, not a 70-foot wide collector street, be installed from this office use, along this office road, up through this area right here (indicating). There will be a roadway through there and there will be emergency access granted right here as well as the right-of-way for that drainage. But what we are saying is do you need a 70-foot collector street to serve 70 lots? I don't want this shopping area to become a shortcut. See, this office road goes like that (indicating). It is kind of a loop road, but if this shopping area starts to become a short cut up through here and cut the corner and go on up this way, I don't think that is an advantage either."

GAROFALO "You keep saying emergency. What do you mean by emergency?"

PARKER "Well, the Fire Department and the people said they just need emergency access to that area, whether that is a gated access or however."

MICHAELIS "That came up as Subdivision, and essentially what he is saying is that there will be an emergency access gate there that the fire department, if they have to get into that northern part can cut and go into it, but normally, they are going to come in off of the other street. So it is emergency only. Is that correct?"

PARKER "That is correct."

WARREN "On Item No. 4 now, are you saying to increase that 20% requirement by staff to 30% on Parcel Nos. 1 and 4?"

PARKER "Parcel Nos. 1 through 4 and 6, yes, sir."

WARREN "And you would like to see that increased to 30% in lieu of the 20%?"

PARKER "We backed off of the 35%, but I think we could live with 30%."

WARREN "I would like to go back over Item No. 8 again."

PARKER "Okay. Item No. 8 is the article that addresses the signs. Initially, we had asked for 3 projects signs, one at this major shopping center entrance, one at this major shopping entrance, and one over here at the entrance to the office area. We reduced the height to 30 feet and it was either that I overlooked it or staff came back and asked for 1 major sign here at 30 feet. All the rest will be at maximum 20. All I am saying is that we would like to have the ability to put a 30-foot sign right over here and mark this major entrance."

WARREN "So you want two 30-foot signs and a 20-foot?"

PARKER "All the rest are 20 foot, per the Sign Code."

WARREN "Are these tenant directory-type signs?"

PARKER "Shopping center signs, yes."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property to the east, southeast, and southwest at the intersection of 127th and Central is zoned "LC", although most is still undeveloped except for a service station. Offices and a hotel have been developed to the southwest near Jackson Heights. The property to the north is proposed for single-family residential use. The single-family development along Central is sparsely settled and probably will transition to the office type uses recommended by the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: A portion of the property is already zoned "LC" Limited Commercial and could be developed as a C.U.P. The 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows a slightly larger area than the current zoning for commercial use. For the western portion of the tract, the drainage, although not part of a designated flood plain, makes residential development more difficult. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to commercial use could impact the residential subdivision to the north. The residential style architecture for the office development, plus screening and buffering along the commercial tract, should minimize detrimental impacts. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is in conformance with the Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan near 127th Street East. While the remaining area is shown for residential use rather than commercial and office, it may be difficult to develop in this manner due to the presence of the lake and other environmental concerns. Further, the property along the southern side of Central across from the tract is shown as commercial and office rather than residential. The request, as recommended by staff, does conform with the commercial and office locational guidelines of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan. Impact of the proposed development on community facilities: Traffic increases anticipated by the new commercial development would be substantial, although the arterial streets already have been widened to five-lane status along much of the frontage. The applicant is requested to extend the left-turn lane and add a right-turn decel lane for access points. The collector connection to Balthrop 4th Addition will improve traffic circulation in the vicinity.) I move that we recommend to the governing body that the request be approved, subject to staff recommendations except that Item No. 2 shall be deleted and that we will accept the plat as presented for the way the openings are, that the floor area be increased to 30%, and that his request for signage of two of them being 30 foot and the balance of 20 feet.

WARREN moved, **HENTZEN** seconded the motion.

PLATT "What did the motion do with Item No. B1?"

WARREN "It left it in place. Sir, did you have a problem with No. 1?"

MICHAELIS "They wanted to change that to emergency access."

GAROFALO "How are these people going to get out?"

MICHAELIS "It is not for these people, it is only a way for them to get to the subdivision to the north."

WARREN "Okay. You are asking for a 30-foot there?"

PARKER "That's what we asked."

WARREN "And you are saying that by virtue of saying this is a collector that it would, in fact then become 70 foot? Okay. Then let me amend my motion, then. Is 30 foot enough, Marvin?"

KROUT "I assume that what the applicant is saying is that he just wants to have a private drive for those parcels. A private access drive that would have emergency access. If he is talking about right-of-way for a street, we don't have a 30-foot standard, and there is really no reason to plat a public street if you are only going to have emergency access to the residential subdivision to the north."

WARREN "What do you see that as, a 29-foot back to back?"

KROUT "You are talking about a 30-foot private drive."

WARREN "Okay, let me modify the motion, then."

AMENDED MOTION: I move that we recommend to the governing body that the request be approved, subject to staff recommendations except that Item No. 2 shall be deleted and that we will accept the plat as presented for the way the openings are, that the floor area be increased to 30%, and that his request for signage of two of them being 30 foot and the balance of 20 feet, and that the collector be eliminated in lieu of a 30-foot private drive.

MICHAELIS "Is that all right with the second?"

HENTZEN "Yes."

GAROFALO "I don't understand. Maybe I am being thick. What I want to know, is the people up there, those lots up there, (indicating) do they have access?"

MICHAELIS "Yes, they have access out the other way."

KROUT "They have access to Central, three quarters of a mile back to the east."

MICHAELIS "This is not their ingress/egress."

KROUT "To Central and to Greenwich."

MICHAELIS "This is only a Fire Department request."

PLATT "Where do we stand on platting on this? You keep talking about a plat. What is the platting status on this?"

GOLTRY "Are you speaking about the plat for this property or the plat for the property to the north? There is no plat for this property. The plat to the north has been approved, but it has been held up. It cannot be recorded because they do not have access easement and they also do not have a drainage easement that they have to get before it can be recorded."

PLATT "The point I want to make is that there is no plat for this."

GOLTRY "No, there is no plat."

PLATT "The motion talked about the openings approved on this plat, and this isn't a plat."

WARREN "Well, I am sorry. In the CUP then. I assume a plat is forthcoming."

PLATT "Are we bypassing Subdivision then if we are going to approve openings here?"

KROUT "It is not uncommon for us to set the access openings as part of the CUP. We are identifying parcels and uses, so with CUPs, we think that this is generally the appropriate time to do that."

PLATT "I think we should hear from Jamsheed then. Since we don't have the City Traffic Engineers here."

MICHAELIS "Mr. Krout would like to make some comments first and then we can ask him a question."

KROUT "I may leave some technical details out, but I am really disappointed. I thought we had worked out the street issue and that there was an agreement. I haven't been greatly involved in the discussions, but as Donna said, the applicant has been very cooperative. I guess that is because he nodded his head yes until he came into the public hearing this afternoon with some of these issues.

We just hired an Access Management Consultant who delivered a big thick notebook. Richard is the representative from the Planning Commission who was there. Access management is a big issue and it is a big deal. I think this is the wrong time to be taking backward steps on access management. You have approved CUPs, and it is true that we may have allowed more access at 13th and Greenwich six or eight years ago than we should have, but we have done a much better job since then. What staff is suggesting in terms of access management isn't anything different than you have approved on many CUPs with shared access. That is No. 1.

No. 2, one of the principles of access management, and we are trying to make this happen, although Wichita generally develops with smaller tracts, which makes it difficult, is to try to have some more integration of the street system so that we don't have every parcel having its access to the arterial street and one way in and one way out, and you have to drive half a mile to get out to an arterial to get back into an area that you wanted to be in in the first place.

I thought the applicant had agreed, when we originally talked about the road being on the west side, that he agreed to move it to the east side on the office parcel. I don't think it has to be built to a collector's standard with the 70-foot right-of-way. If the land area is an issue, I think that we can work with the applicant on the standard, but I think that it is important

to provide access to 70 lots which generates 700 cars per day to try to get better access out of that subdivision, which otherwise is very isolated.

And last, he is asking for a 30-foot sign on 127th Street as well as on Central per the Sign Code. That is not true. If this wasn't a CUP, he couldn't even ask for a 30-foot project sign. He would have to go to the Board of Zoning Appeals for a variance for a 30-foot sign. So he is asking for more than the Sign Code actually permits."

WARREN "What does the Sign Code say, 25 foot?"

KROUT "The Sign Code would allow a 25-foot sign on 127th Street. I don't mind a project sign on 127th Street, but we certainly wouldn't want you to approve something more than the Sign Code would permit."

WARREN "And you are saying that the only way he could even ask for that without going to the Board of Zoning Appeals is to..."

KROUT "He could ask for it as part of the CUP because a CUP allows you to make variations in the Sign Code, but you need to identify the same kind of justification that the Board of Zoning Appeals would have, which is that there is a hardship involved in this property and it basically can't be developed without a 30-foot sign."

WARREN "Well, I know that when you are getting what I call a tenant directory sign, I think he called it a mall sign, you get 5 to 7 people on there and sometimes it is hard to do in 20 or 25 feet and give each one of them any representation at all."

KROUT "You don't always have to put every tenant on a product identification sign."

WARREN "I suppose that is true."

JOHNSON "Marvin, am I reading you right, if this private access, if the applicant was agreeable to make that where it is actually a private drive to that 70 lots that that would be acceptable?"

KROUT "It could be a private drive. Our collector standard in terms of paving is only 24 feet. I think the applicant in the brief last part of the discussion that I had said 'I shouldn't have to pay for the paving of that road myself if it is going to provide access to the subdivision to the north', and I remember saying that I agreed. If we are providing additional access to that subdivision, then that subdivision ought to participate in the paving of it. So if there is extra cost because it is a public street, maybe that is appropriate, but maybe the way that should happen is by participation of the two property owners, but it certainly doesn't have to be a 70-foot right-of-way."

HENTZEN "There has been reference to 70 lots. Are they on this parcel or are they on the parcel to the north?"

GOLTRY "The parcel to the north."

KROUT "The triangle that is to the north."

HENTZEN "To the north. And you are trying to make this guy make a 75 foot road so they can go somewhere?"

KROUT "I didn't say 75 or even 70."

HENTZEN "Well, why is he objecting to what your demands are?"

KROUT "He would just as soon that they go out by going to the west, and that they not contribute traffic into his development."

HENTZEN "Well, what is the matter with that?"

KROUT "Well, we think that good access management, good convenience for everybody in the mile section development is not having one way out and one way in of every subdivision and trying to distribute the traffic in a more reasonable way and that would be what you would have when we have a substantial development to the north. It makes sense to have that back down to Central where most of them will probably will want to be."

MARNELL "I think this is one of those kind of issues that if we don't get it right early on, it is really hard to correct. There are plenty of examples, and 13th Street may turn out to be one of them where there is too much access and there is going to be major arterials for a long time to come. I think we ought to defer this thing to maybe the next meeting and have time for the staff and the applicant to work some of this out. If every property that abuts the major arterials refused some kind of access to the interior of the sections, we wouldn't have any orderly development at all. So I don't know what the appropriate time to delay it to would be, but I would be willing to make a motion to that effect."

MICHAELIS "There is already a motion on the floor. You could make it as a substitute motion."

MARNELL "Marvin, what would be an appropriate date to defer this to?"

KROUT "I think the next meeting."

SUBSTITUTE MOTION: That the item be deferred to the March 8 Planning Commission meeting.

MARNELL moved, **OSBORNE-HOWES** seconded the motion.

MICHAELIS "Is there discussion on the motion?"

JOHNSON "Would there be a way—there is a plat to the north that is on hold until something gets worked out on this. Is there a way, also, to get that involved so that it could all work together?"

KROUT "We could invite the applicant in for that discussion, yeah."

MCKAY "I agree with the fact that there are too many loose ends on this thing, and if you are talking about providing access to the housing to the north, I don't think these people should pay for it, but you don't know if the people to the north are willing to go in on this thing. I would think they would want to because their plat is being held up now because they don't have access."

KROUT "I just want to put on the record, so that when we come back, you will understand the concern, we are talking about over 600,000 square feet of commercial development, which could generate as many as 20,000 cars per day. I am not sure that it was a good idea for us to give approval to anything without a traffic study. I think there are real questions about what happens at 127th Street. I assume that there is not going to be any left turns from northbound 127th, but I am not sure. It is very close to the intersection. This is a really substantial development, and I think you should slow down and you need to look at this a little bit more carefully."

WARREN "I would like to ask a question of the applicant. The substitute motion that is on the floor now, what kind of a hardship is that going to work on you?"

PARKER "We are working with the neighbors to the north. And I am sorry, Marvin, I understood that staff wanted a 70-foot dedicated right-of-way for a city standard collector street. If that is not the case, and a 30 foot situation, we don't have a problem with this."

WARREN "Do you feel comfortable with a 2 week delay, then?"

PARKER "Yeah, I suppose we could stand that, yes."

MICHAELIS "So is there any other discussion?"

VOTE ON THE SUBSTITUTE MOTION: The motion carried
unanimously (12-0).

12. **ZON2001-00003** – Jarold E. Lewis requests a zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

The West 65' of the East 189' of S 125', Lot 2, [Elmwood 2nd Addition]. Generally located on the northeast corner of Pawnee and Hillside.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant operates Ace's Pawn Shop located at the northeast corner of Pawnee and Hillside. The applicant takes in vehicles on pawn, and occasionally those vehicles are not redeemed. He would like to be able to store pawned vehicles on the application area that is located just east of the applicant's pawn shop. Therefore, the applicant is seeking "GC" General Commercial zoning to permit outside storage on a portion of a platted lot (located approximately 125-150 feet east of Hillside, north of Pawnee). The applicant indicates that he does not offer vehicles for sale at this location if they are not redeemed. Cars not redeemed are sent to an auction service for disposal.

The lot is currently zoned "LC" Limited Commercial which severely limits the size of outdoor storage permitted when compared to the "GC" district. (Storage in the "LC" district must be entirely screened from view and is limited in size to no more than 10 percent of the floor area occupied by the principal use unless a Conditional Use permit authorizing a maximum storage area up to 20 percent of the floor area of the principal structure has been issued.) The application area is approximately .5 acre in size and is developed with one building that takes up approximately 1/3 of the site. The undeveloped portions of the site would be used for vehicle storage. The site is entirely enclosed with buildings, solid screening or a 10-foot chain-link fence.

Parking for the pawn shop is located west of the application area and the storage area does not appear to use any of the required off-street parking spaces required for the shop.

Surrounding zoning is "B" Multi-family Residential, and "LC" Limited Commercial. Surrounding uses are residential, retail commercial and car repair.

CASE HISTORY: Elmwood Second Addition was platted in 1954.

ADJACENT ZONING AND LAND USE:

NORTH: "B" Multi-family Residential; residence
SOUTH: "LC" Limited Commercial; auto repair and strip retail
EAST: "LC" Limited Commercial; retail
WEST: "LC" Limited Commercial; retail convenience store

PUBLIC SERVICES: Public services are available. Pawnee is a four-lane arterial that carries 18,345 vehicles on an average day.

CONFORMANCE TO PLANS/POLICIES: The Wichita-Sedgwick County Comprehensive Plan depicts this site as appropriate for commercial uses. The Wichita Residential Area Enhancement Strategy Map depicts this site as a "conservation" area. These are neighborhoods that are basically sound and marketable, but require protection from encroachment by uses which would undermine the areas desirability and market appeal. Strategy III.B5 indicates that outdoor sales, highway oriented uses and non-retail commercial uses should be confined to highway corridors and areas where similar uses already exist.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following conditions:

1. Permitted uses are those permitted by-right in the "LC" Limited Commercial district plus vehicle storage.
2. All vehicles stored must be complete, visually intact and operable. No salvage activities or outdoor repair work may be conducted in conjunction with vehicle storage.

This recommendation is based on the following findings:

2. The zoning, uses and character of the neighborhood. Surrounding zoning is either "LC" Limited Commercial or "B" Multiple-family Residential. There is one residence abutting the application area. With the exception of the car repair use located south of the application area, all of the commercial uses in this general area are typical convenience retail sales uses. The car repair use has a large number of vehicles parked on its lot and is not in character with the commercial uses in that the other three corners have been remodeled or redeveloped in recent years. Aggressive enforcement of the zoning code could help clean up the appearance of the repair use.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LC" Limited Commercial, which permits a wide range of uses and the site could probably be put to a permitted "LC" use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: In addition to outside storage, the "GC" district permits a number of more intensive uses that are not permitted in the "LC" district. Development standards (height, setbacks) area also different in the "GC" district when compared to the "LC" district. This lot is not even located at the corner of the intersection and would introduce "GC" zoning into an area where it is not currently in use, likely setting off additional requests. Open vehicle storage areas at pawn shops nearby, along Oliver south of Pawnee, present a negative image for the larger neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Plan depicts this site as appropriate for commercial uses, however the plan does not distinguish between "LC" and "GC" zoning. But Strategy III.B5 indicates that outdoor sales, highway oriented uses and non-retail commercial uses should be confined to highway corridors and areas where similar uses already exist. The Wichita Residential Area Enhancement Strategy Map depicts this site as a "conservation" area These are neighborhoods that are basically sound and marketable, but require protection from encroachment by uses which would undermine the areas desirability and market appeal. Outdoor storage in one of the uses that tends to present a negative image which would not be supportive of the adopted policies and plans for this area.
5. Relative gain to the public welfare as compared to the loss of value or hardship imposed on the applicant: Although the applicant indicates that he needs this use, he has not indicated any specific hardships to continuing his business without this use. The visual impact of this proposed outdoor use will hurt the image of this part of the city and hamper efforts to improve this area.
6. Impact of the proposed development on community facilities: None identified.

MILLER "The applicant owns a pawn shop that is located on this tract of land, which is right at the corner of the northeast corner of Hillside and Pawnee. The application area is the property immediately east of this pawn shop. He takes in vehicles on pawn and occasionally those vehicles don't get redeemed. So he feels like he needs someplace to store

these vehicles while they are on pawn. Since he owns the property and it is adjacent to his shop, he is asking for the 'GC' zoning so that he can store the autos on this location.

There is a transmission auto repair shop to the south along with some other kind of convenience thing. It looked like there was maybe a beauty shop or something there. There is some more convenience retail here, like a tropical fish store and a Quik Trip or some kind of a convenience store there. To the east of the application area is a small strip center. There is a home to the north of the pawn shop.

We are not supporting the request, but if you decide that this is an appropriate request, we are recommending, on Page 3 of the staff report, 2 conditions that should be applied. They are that it be limited to the 'LC' uses plus vehicle storage would be the only 'GC' use that he could do there.

And all vehicles that are stored there need to be visually intact and operable. No salvage operations.

I could go into the reasons for the denial if you want me to. If you feel like you are familiar with them, I won't."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Miller. Can we hear from the applicant, please?"

JAROLD LEWIS "I own Aces' Pawn Shop on the corner of Pawnee and Hillside. I have been in business there for almost 16 years. We have run an honest business. We work closely with the police every day. We have made a lot of friends through and with the Police Department and others. We don't plan on selling any cars, first of all. That is a very important thing. All we want to do is store them. We have made arrangements with an auction company on south Broadway that if any of these vehicles become ours, we will sell them out there. I am not going to turn this place into a car lot. I know that is what part of the problem is that the staff was thinking that we should be denied.

We take good pride in our neighborhood. We get along well with our neighbors. I know them all. The Titus' who live next door, Dr. Dan who lives on the other side of him; all of these people who were on the list of people who were to be contacted. I was able to contact 8 out of 10. There are 2 property development people who own property over in Plainview that didn't respond to my letter. Everybody else signed a letter, which I have, or a little statement that says 'I, the undersigned property owner would not be opposed to the rezoning of 3212 East Pawnee'. All of them. I also put out a little sheet on my counter because they thought maybe some of the people in my neighborhood would be opposed to this. Some of the people that live there or some of the people that traffic there. And everybody that came in, 391 who I asked what they would think of this signed it. I had one lady that said she really didn't have time to, but said she would come back and sign it but she didn't get back yet. So I did have the one that did not sign out of all of those that I asked.

To the staff report, I have no objections at all if you would even leave me 'LC' with the variance to just let me store up to 16 or 18 cars. As you saw on my picture drawing, I am not planning on putting them anywhere near the street. They will be back off of the street approximately 35 feet. They will be in order. I would not take a car that is broken. I am not a certified mechanic or anything like that. I also won't take a car that is wrecked. They would all have to pass state because I want to be able to sell them if they do become mine. So needless to say, I wouldn't want to take anything that I would have to have more expense on if it did become mine that I would have to pay to have it fixed. That is just not good business.

On Item No. 5, they said that we didn't list any specific hardships to this. Our business, over the years, as there have been more pawnshops coming in, our customer base has shrunk because there are more pawnshops. So needless to say, our income has shrunk. We started doing this before we realized that we had to be rezoned. Of course, I jumped through all of the hoops and did everything that I was supposed to do as soon as I found out. It has really helped us a lot. It has taken the burden of worrying about where the finances will be coming from to keep open. I would like to stay in business for another 16 years there, if possible, but I really feel that this is necessary. Like I said, I take great pride in my neighborhood, and I approached everybody, including the Grace Lutheran Church and all of them have signed stating that they would not be opposed to rezoning. But if the Commission decided just to let us park cars there under an 'LC' with a variance, I would have no problem at all with that because I am not going to sell cars, I am not going to bring the property value down because someday I might want to retire and I might want to be able to sell that property. I don't want to destroy it. I have taken enough of your time, it is late. Thank you."

MICHAELIS "Thank you. Are there any questions of Mr. Lewis?"

JOHNSON "Basically, this is just cars, it isn't boats, etc.?"

LEWIS "Cars and trucks. Truck vehicles, too."

JOHNSON "How big of trucks?"

LEWIS "Just pick-ups. I do have a van on there now that a friend of mine left. He is having trouble where he lives and he is trying to open up a shop, so I did let him park it there, but that is the only van that is there. It will be either a ½ ton, maybe a ¾ ton pick-up or just regular cars."

GAROFALO "You will have to enlighten me on the pawn shop business. I have never pawned anything, I don't know anything about it. How long can you hold these vehicles before you own them?"

LEWIS "By state statute, it is 90 days, sir."

GAROFALO "So you can have a vehicle there for 90 days. That is 3 months."

LEWIS "Yes, sir."

GAROFALO "And then what would happen?"

LEWIS "If they didn't come in and redeem it or pay on it, it would be taken down to the Wichita Auto Auction on south Broadway and be disposed of there."

GAROFALO "Okay. And the vehicles that you have there now, have any of them been there more than 90 days?"

LEWIS "Not to my knowledge. Now, they can come in and pay a storage fee and leave them an additional month. As long as they continue to pay on them, they can leave them there. There is no stipulation except the state requires that if they haven't paid on them in 90 days that you can sell them. That is with any of the pawn items."

GAROFALO "So they could come in and pay something on it and that could go on for how long?"

LEWIS "Indefinitely. But here again, I would not take a car that wasn't suitable to the eye either."

GAROFALO "And if someone came in after the 90 days and you have a vehicle there and somebody came in and said 'hey, I would like to buy that vehicle', you would not sell it?"

LEWIS "No, sir, I won't. That could be part of the stipulation, too. I don't have a problem with that. I just want to have the ability to continue to make a living."

WARREN "The only type of fencing you have there is just like a chain-link fence?"

LEWIS "Yes, sir."

WARREN "And you had no intention of screening that?"

LEWIS "I didn't know that was necessary. We put up lights. The reason I don't want to screen it is so the Police Department can see the area in there. So we can have security. We do have the lot lit."

WARREN "What do you propose in that 35 feet to the south?"

LEWIS "Nothing at all. I am leaving it open. That is for putting cars in and parking them and bringing them out. I am not going to put anything in there. That is why I said if you wanted to put a limitation to the amount of vehicles that I pawn, I have no problem at all with that. Sixteen or eighteen vehicles, anything like that I have no problem with."

WARREN "This has nothing to do, then, with marketing or sales, this has to do with storage?"

LEWIS "Absolutely not. Just storage, sir. Like I told the City when we went up to the planning deal, I have no intention of selling cars."

OSBORNE-HOWES "How do you know they are operable automobiles?"

LEWIS "We take a ride in them before they leave. We make sure the transmission is functional. All of the directional signals work, none of the windows are broken and it has not been wrecked, etc."

OSBORNE-HOWES "Do you hold the title?"

LEWIS "We do hold the title, but we have them sign a power of attorney. We don't do anything on the title."

HENTZEN "I want to ask Marvin something."

MICHAELIS "Okay. Are there any further questions of the applicant? Thank you, Mr. Lewis."

HENTZEN "Marvin, do we have a way of saying 'let's don't change the zoning, let's authorize a variance for this'. Does that have to go to the BZA?"

KROUT "The BZA doesn't have the authority in Kansas to grant use variances."

HENTZEN "Do we have that authority?"

KROUT "Not in the Zoning Code today. You have the authority in the 'LC' district to do a Conditional Use for vehicle sales, but we have always said, up until now, under the Zoning Code, if you want to do outside storage, whether it is vehicles or anything else, that that should be a General Commercial zoning category because it is not Limited Commercial anymore. The idea of 'LC' is generally to limit the outside sales, outside display, and outside storage."

So the way that Dale has suggested that if you want to limit all of the other things that might otherwise go on in 'GC', use a Protective Overlay, which limits it to 'LC' uses, the vehicle storage use, and then have some condition on the condition of the vehicles and maybe you would say that it is. I think we have said that it is only for vehicle storage and maybe you could put a limitation on the size of trucks also."

OSBORNE-HOWES "Where does it talk in here about the Protective Overlay?"

MILLER "Under the recommendation section, Page 3, A and B. It doesn't actually say Protective Overlay, it says subject to the following conditions. It should say Protective Overlay."

MICHAELIS "Any other discussion? Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; and considering that the location seems to be appropriate for the use, I move that we recommend to the governing body that the request be approved, subject to the with the additional provisions of a Protective Overlay as follows:

1. Permitted uses are those permitted by right in the "LC" Limited Commercial district plus vehicle storage.
2. All vehicles stored must be complete, visually intact and operable. No salvage activities or outdoor repair work may be conducted in conjunction with vehicle storage.

MARNELL moved, **WARREN** seconded the motion.

WARREN "I seconded the motion just for the sake of getting it on the board. I would like to have some discussion though."

MICHAELIS "Okay. Discussion, Mr. Warren."

WARREN "I am not really in favor this. I think I would be, in this case, a little more in favor if he would agree to screen that off of Pawnee. In this case, where there is no marketing, no sales, I don't see how it would hurt him. If there is any deterrent at all, like he said, they wouldn't be able to see inside there. I am not sure with those old cars that it is going to be very important. But this can be uglier than a used car lot. I think the guy out there on Oliver has probably done that whole little industry a terrible disservice.

But I probably will oppose the motion, even though I seconded it, if we didn't get screening."

LOPEZ "My concern is that I think this is the first pawn shop that has ever requested this type of outdoor storage. If we approve this, are we opening up the floodgates now for every pawn shop that has space adjacent to it to start coming in here requesting the same type of activity and use?"

MILLER "We are getting a lot of requests for sales."

MICHAELIS "I would like to ask the question of staff like say the pawn shops up on Broadway that have all of the boats and stuff out front, what classification does that come in?"

MILLER "On north Broadway? They are probably General Commercial, I imagine. The ones I am thinking of are over on Oliver. We did have some requests somewhere in that neighborhood."

KROUT "On Oliver south of Pawnee. That is just a mile from this area. Those did go through process. They were approved, and now, in retrospect, we are concerned that we didn't do that area a favor by approving them."

MILLER "They were approved for sales."

MICHAELIS "So under 'LC' you can't have any outdoor storage of any kind?"

MILLER "It is severely limited."

PLATT "I am sympathetic with the applicant, and I think it is great that the neighbors support him, but I will oppose the motion for the same reasons I opposed what we did a mile to the east there not too long ago. I think the stripping out of Pawnee for General Commercial is telling the neighbors on both sides of Pawnee to forget about being a residential neighborhood. So I cannot support it."

WARREN "I want to ask staff, how does this guy out there on Oliver south of Pawnee who has the fire truck and about 15 jillion cars, how does he get by with that?"

MILLER "They came through and got rezoned for 'GC' zoning. I almost took a shot of that site because I drove by there, but then I thought it might not be fair to say that this is what it could look like."

WARREN "So what you are saying is that what he is doing there on Oliver is within Code?"

KROUT "Within what was approved. He is allowed to keep things out there that this Protective Overlay wouldn't permit, like the fire truck, equipment and whatever else is out there. I think that property also goes all the way to the property line, in fairness, to Oliver, whereas the applicant is agreeing and you can include it, I suppose, if you wanted to, a setback from the street within the smaller scale. So it is somewhat different, but we are pretty nervous that we are opening up a door that we don't recommend."

GAROFALO "I would like to make a substitute motion."

SUBSTITUTE MOTION: That the request be denied.

GAROFALO moved, **PLATT** seconded the motion.

MICHAELIS "Is there any discussion on the substitute motion?"

HENTZEN "I have a question. Dale, do you have a clue as to how many pawn shops are in Wichita/Sedgwick County?"

MILLER "No."

HENTZEN "Do you think 15 to 20?"

MILLER "I would assume that there would be more, but the applicant may know."

HENTZEN "Okay. What I was thinking as I sat here, what would those 20 some shops need in zoning if they wanted to have a pool place? That is they don't keep them on their own property, but if they all contract at the same place for storage. What would they need for that, 'GC' zoning?"

MILLER "Yes."

MICHAELIS "Why don't we direct that question to the applicant?"

HENTZEN "No, this is just for staff."

MILLER "They would need 'GC' zoning, but if there is some statutory prohibition on pawn shops not being able to do that, that would be a different issue, but as far as just like the insurance pools, etc."

WARREN "I would like to hear from the applicant on that. I would like to hear what he has to say. Would it be illegal to put those cars anywhere else?"

LEWIS "Yes, sir. What it amounts to is that it is against the state statute to store anything away from the actual business that has applied for the pawn shop license."

WARREN "Okay. And you can't have off-site storage?"

LEWIS "No, sir, they won't allow it. As a matter of fact, one guy tried it and they almost shut him down because of it."

KROUT "Do you know the reason for that law?"

LEWIS "No, sir. It is just in the state statute, or the city statute, which is about that thick (indicating)."

KROUT "It is in the city statute?"

LEWIS "Yes. And may I also say one more thing while I am here, please? I take too much pride in my business to ever turn it into what Easy Money looks like. I am totally against that, we have been all along. We are not a junk store. We take pride in it. He showed you a picture of how our store looked on the outside. We take pride on the outside and the inside of it. We are always told by our customers about how clean a place we keep. The Police Department could tell you how honest a place we run. I am at a point now to where we borrowed the money, even to pay for this application."

OSBORNE-HOWES "I was thinking, I am prepared to vote on this today, one way or the other, but if the staff doesn't know about that rule, I am wondering if it would hurt to delay this a couple of weeks to find out about that statute. It might affect how people would vote."

SUBSTITUTE MOTION: That the Item be deferred for 2 weeks.

OSBORNE-HOWES moved, **WARREN** seconded the motion.

MILLER "And that would be to research the prohibition about the pool thing?"

MICHAELIS "Yes, to see if that may have some impact on your recommendations."

MILLER "Okay."

VOTE ON THE SUBSTITUTE MOTION: The motion carried with 10 votes in favor (Lopez, Osborne-Howes, Johnson, Michaelis, Warren, Marnell, Coulter, Platt) McKay and Hentzen) and 2 in opposition (Garofalo and Warner). Carraher and Barfield were not present.

- 13a. **CUP2001-00003 – DP-196** – One Kellogg Place Amendment #2 – Kellogg-Greenwich Road Associates c/o Robert W. Kaplan (owner), Vernon W. & Toinette D. Holzman (owners); the R.H. Johnson Company c/o Owen Buckley (contract purchaser); Baughman, P.A. c/o Phil Meyer (agent) request the addition of one-acre tract and minor modifications to the circulation plan of DP-196 One Kellogg Place C.U.P. described as:

Lot 1 through 5, Block 1, Lots 1 through 8, Block 2, Lots 1 through 7, Block 3, Lots 1 through 3, Block 4 and Reserves A, B, C, D, E, and F, in One Kellogg Place Addition to Wichita, Sedgwick County, Kansas. AND

Beginning 342 feet north of the SW corner of the N ½ of the NW ¼; thence east 217.8 feet; thence north 200 feet; thence west 217.8 feet; thence south to beginning, Sec. 27, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas; and

- 13b. **ZON2001-00004** – Kellogg-Greenwich Road Associates c/o Robert W. Kaplan (owner), Vernon W. & Toinette D. Holzman (owners); the R.H. Johnson Company c/o Owen Buckley (contract purchaser); Baughman, P. A. c/o Phil Meyer (agent) request a zone change from "GC" General Commercial, "LI" Limited Industrial, "NR" Neighborhood Retail; and "SF-6" Single-Family Residential to "LC" Limited Commercial, on property described as:

Lot 3, Block 4 and Lot 1, Block 3, One Kellogg Place Addition to Wichita, Sedgwick County, Kansas. AND Beginning 342 feet north of the SW corner of the N ½ of the NW ¼; thence east 217.8 feet; thence north 200 feet; thence west 217.8 feet; thence south to beginning, Sec. 27, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas. Generally located on the southeast corner of Kellogg and Greenwich Road.

DONNA GOLTRY, Planning staff pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is proposing that a one-acre tract along Greenwich Road currently zoned "SF-6" and used as a residence be added to DP-196 One Kellogg Place C.U.P., and that it be zoned "LC" Limited Commercial. Also, the applicant is requesting that the land south of this tract along Greenwich Road be rezoned from "NR" Neighborhood Retail to "LC" Limited Commercial.

Other proposed changes to the C.U.P. include adjusting the size of several parcels, and moving the internal circulation drive approximately 100 feet to the north along Greenwich. The result is to increase the size of Parcel 12 on Greenwich from 2.55 to 3.56 acres and to reduce the size of Parcel 2 from 2.54 to 1.37. Also, Parcel 2 is reconfigured to provide direct frontage onto Greenwich. Allowed uses in Parcels 2 and 12 would include all permitted "LC" uses except: adult entertainment establishments, group homes, group residential, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor are permitted as long as food is the primary service of the establishment. Parcels 2 and 12 would be limited to one building each.

The internal circulation drives have been renamed from "Common Frontage Area 'A' " to "Reserve 'B' ", and from "Common Frontage Area 'B' " to "Reserve 'A' ". The drainage areas have been renamed Reserve "C" and Reserve "D".

Existing uses along Kellogg include several car dealerships and used car sales lots, auto repair, and manufactured homes sales lots. The property to the east of the C.U.P. is developed with mini-storage warehouses (DP-117 East Kellogg Mini Storage C.U.P.). Turnpike forms the southern boundary, with the newly constructed Seltzer Elementary School and Woodland Lakes Estates located south of the Turnpike. One residence adjoins Parcel 2, and eight residences are located on the west side of Greenwich Road.

CASE HISTORY: The property is platted as One Kellogg Place Addition, recorded October 4, 1993, but is being replatted as One Kellogg Place Second Addition. Amendment #1 to the C.U.P. was approved January 9, 2001, adding 50 acres to the development and redesigned the C.U.P. to have three large sites plus a series of pad sites along Kellogg.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC", "LC", "SF-6"	Car and manufactured home sales lots, vacant
EAST:	"GC"	Vacant tract, mini-storage warehouses
SOUTH:	"SF-6"	Turnpike, school, vacant
WEST:	"GC", "SF-6"	Car and manufactured homes sales lots, houses

PUBLIC SERVICES: Transportation access is provided to the site via Kellogg (US 54), which is scheduled for reconstruction to freeway standards by 2007, and Greenwich Road, which is scheduled for widening to four lanes in 2007. Average daily traffic on Greenwich was 7,436 cars per day in 1997 and projected to increase to 14,897 in 2030. Traffic on this segment of Kellogg (U.S. 54) was 21,180 cars per day in 1997 and projected as 51,179 cars per day by 2030.

The Traffic Study Greenwich Road and Kellogg Ave. (U.S.-54) Wichita, KS, Traffic Engineering Consultants, Inc., was submitted in November 2000 ("TEC") and revised in December. The revision was prepared to demonstrate that the street network could handle the projected traffic volumes prior to freeway construction if the total level of development were held to no more than 627,000 square feet of commercial use or traffic generation of 23,000 vehicles per day. The study also helped identify interim and permanent improvements needed to maintain an acceptable level of development prior to freeway construction, and after construction of Kellogg to freeway standards.

Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the area for "commercial" and "industrial" development." Kellogg is identified in the Comprehensive Plan for the most intense types of commercial development.

RECOMMENDATION: The proposed C.U.P. amendment is in conformance with the Comprehensive Plan, which shows the area along Kellogg as "commercial" and the area nearer the Turnpike as "industrial".

A pocket of residential use is located along the west side of Greenwich near the proposed "LC" Limited Commercial zoning. While "LC" does not operate as an effective buffer, the bulk of the more intense commercial development will be somewhat separated from the view of the residences by these two smaller parcels along Greenwich. And, it should be noted that the area where the residences are located is shown for "industrial" use on the Comprehensive Plan.

The one remaining residence on the east side of Greenwich adjoins a portion of the west and north property lines of Parcel 2. It is recommended that a screening wall and landscape buffer be provided to reduce land use conflicts between commercial development and this residence.

Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to completion of the replatting within one year and subject to the following conditions:

1. Six (6) to eight (8) foot masonry screening wall and a landscape buffer shall be provided along the north and west property line of Parcel 2 where it adjoins property with residential zoning.
2. General Provision 7(G) shall be revised to state, "All freestanding signs shall have a maximum height of 20 feet for Parcels 2 and 5-12 and 30 feet for Parcels 1, 3, and 4.
3. A Site Circulation Plan shall be submitted to the Traffic Engineer for approval. This Plan shall include a smooth flowing internal drive with no parking spaces taking direct access from the drive that connects Reserve "A" with Reserve "B" across Parcel 1.
4. General Provision #26 shall be revised to state "This C.U.P. shall be restricted to a maximum gross floor area of 627,000 square feet, and provided that the site generated traffic does not exceed 23,000 vehicles per day until such time as Kellogg (US-54) is improved to a freeway standard."
5. The following transportation improvements shall be guaranteed at the time of replatting or provided as onsite improvements:
 - A. Kellogg Accel/Decel Lane Interim Improvements: Decel lane begins west of Ellson and continues to Zelta, and with a possible accel lane east of Zelta if required by KDOT. (guarantee)
 - B. Kellogg and Ellson Interim Improvements: Channelize the center median at Kellogg and provide a raised, channelized median in the drive to eliminate all left turn movements except the eastbound left turn movement to the area north of Kellogg. (guarantee)
 - C. Kellogg and Zelta Interim Improvements:

Northbound dual-left turn lanes with 200 feet of storage (provide a raised median from Kellogg to Reserve "B" with a single right-turn lane and a combined left-turn/through lane). (private improvement)

Southbound left/through/right lanes should match those of the northbound segment. (guarantee)

Eastbound single-left turn lane with 100 feet of storage. (guarantee)

Westbound single-left turn lane with 350 feet of storage. (guarantee)

Installation of signalization, including provision of apron for anchoring the signal of sufficient width for three lanes for the southbound leg of the intersection. (*guarantee*)

D. Kellogg & Greenwich Interim Improvements:

Westbound single-left turn lane with 400 feet of storage. (*guarantee*)

Eastbound right-turn decel lane with 100 feet of storage

Extension of northbound left turn lane to a total length of 250 feet. (*guarantee*)

E. Permanent Improvements to Greenwich Road and Reserve "A":

Permanent improvements as per City standards of Greenwich Road as a four-lane section from the taper under the bridge at I-35 (KTA) to north of Reserve "A", ending approximately at Orme. (*guarantee*)

Northbound single-right turn decel lane with 100 feet of storage. (*guarantee*)

Southbound single-left turn lane with 300 feet of storage. (*guarantee*)

Westbound single-left turn lane with 150 feet of storage (provide raised center median) and westbound single-right turn lane with 320 feet of storage. (*private improvement*)

Signalization, when warranted. (*guarantee*)

6. Kellogg Drive Permanent Improvements: Construct Kellogg Drive per City standards when Kellogg is built to freeway standards. (*guarantee*)
7. The development of this property shall proceed in accordance with the revised development plan, as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
10. All property included within this C.U.P. and zone case shall be replatted within one year after approval of this C.U.P. and rezoning by the Governing Body, or the cases shall be considered denied and closed.
11. Prior to issuing a building permit on any portion of the C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-196) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the surrounding area is zoned "GC" General Commercial and "LC" Limited Commercial, and is developed with commercial uses, including car dealerships and used car lots, a body shop, a car rental agency, manufactured home sales and mini-storage warehouses. There is one residence adjoining the application area and several houses across Greenwich. These residences are zoned "SF-6" Single-Family, but shown for industrial use on the *Comprehensive Plan*.
2. The suitability of the subject property for the uses to which it has been restricted: Parcel 12 could be developed as zoned for "NR" Neighborhood Retail. The C.U.P. already governs the site except for the one acre tract on Greenwich, which is bordered by "GC" and "LI" zoning, making residential use less suitable than commercial.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The traffic anticipated from the commercial development might detrimentally affect the nearby residences west of Greenwich, however, this effect would occur regardless of the proposed amendment and step-up of zoning from "NR" Neighborhood Retail to "LC" Limited Commercial is approved.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the Comprehensive Plan and supports the commercial strategy of providing auto-related commercial activities along Kellogg.
5. Impact of the proposed development on community facilities: The site will have a significant impact on traffic, but this would be mitigated by the required improvements and floor area build-out limitations for the interim period prior to freeway construction of Kellogg.

GOLTRY "This is a relatively simple request to expand DP-196 slightly over the one you saw just recently. In fact, we just got it finished in January, and now they have acquired this little piece of property right in here (indicating) and they want to request this little area along Greenwich be rezoned from 'NR' Neighborhood Retail to 'LC' Limited Commercial. As a result of this revision, they will be re-aligning the original plat. If you remember, they had the strange name called 'Common Frontage Areas A and B', and they have been re-titled as reserves. But what they are is basically private internal drives to the commercial property that just served the property. It is being re-aligned slightly to the north, which is fine in terms of access and traffic improvement considerations. That gives them a larger parcel here (indicating).

The main thing in the recommendations is that there is a very long, mostly a restating, but refining of the improvements that were discussed and approved as part of the previous amendment for DP-196. I do need to do one little tweak on one condition. Phil, help me out on which one it is. It's Zelta and Kellogg where the westbound, left-turn lane is to be a single lane with 350 feet of storage, or 2 lanes with 300 feet of storage, depending on which way KDOT feels it ought to be. We all know that Kellogg is truly KDOT's road. So they may want it to be 2 lanes of left-turn into the side of Zelta rather than one lane. So we have asked that there be a little tweaking on the recommendations for that standpoint. I believe we are mostly in agreement except for a couple of minor things related to the screening wall and the number of buildings. I will turn it over to questions at this time."

MICHAELIS "Are there any questions of staff? Okay. Thank you Ms. Goltry. Could we hear from the applicant, please?"

PHIL MEYER "I am with the Baughman Company, agent for the applicant. Like Donna said, we are in agreement with staff comments except for one item that is in the comments. I need to request one additional item. On Parcel No. 12, we would like to ask for 2 buildings to be allowed on Parcel No. 12, rather than one. We are not changing the square footage or anything, but just the ability to put 2 buildings on that parcel.

The other item that I would like to discuss with you and the more I have sat in the audience and thought about it and talked to other people, the more I probably am confusing myself, but we have this one exception right here (indicating), which is a residence. The developer of this property purchased the south lot and has the north lot under contract. We need the south lot right now to make this development happen and to get the drive in and out. Right now, there is an awfully nice evergreen screen along the back of it, which I think would probably serve it better than a masonry wall, but it is fairly logical, with this being a car lot and this being commercial development, that eventually that is going to become a commercial development. I hate to build a masonry wall along the east line and along the south line to screen it when it is probably a short term solution.

I also hate to tear down that evergreen hedge row to put up a masonry wall. I think what I would like to suggest today is that if I get the permission of that landowner to allow me to either leave that hedgerow in place or replace it with a 6-foot cedar fence on a short-term basis until that parcel develops out commercially. It is just a matter of time. That is not going to stay residential. So we really don't want to put the masonry wall up there."

WARREN "Are those cedars solid now on the south and on the east?"

MEYER "I don't think it is on the south. Donna, if you have some pictures it would help."

GOLTRY (Indicating) "This is the subject tract that you are incorporating, but there are quite a few trees on the property."

MEYER "The hedgerow runs along the east line, north and south. It doesn't turn along the south portion there, but we can allow that hedgerow to go south far enough to supply a good buffer to that residence. We worked many hours together to get the staff comments to where we are all in agreement."

MICHAELIS "Are there any questions of the applicant? Seeing none, thank you, Mr. Meyer. Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): Most of the surrounding area is zoned "GC" General Commercial and "LC" Limited Commercial, and is developed with commercial uses, including car dealerships and used car lots, a body shop, a car rental agency, manufactured home sales and mini-storage warehouses. There is one residence adjoining the application area and several houses across Greenwich. These residences are zoned "SF-6" Single-Family, but shown for

industrial use on the Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: Parcel 12 could be developed as zoned for "NR" Neighborhood Retail. The C.U.P. already governs the site except for the one acre tract on Greenwich, which is bordered by "GC" and "LI" zoning, making residential use less suitable than commercial. Extent to which removal of the restrictions will detrimentally affect nearby property: The traffic anticipated from the commercial development might detrimentally affect the nearby residences west of Greenwich, however, this effect would occur regardless of the proposed amendment and step-up of zoning from "NR" Neighborhood Retail to "LC" Limited Commercial is approved. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the Comprehensive Plan and supports the commercial strategy of providing auto-related commercial activities along Kellogg. Impact of the proposed development on community facilities: The site will have a significant impact on traffic, but this would be mitigated by the required improvements and floor area build-out limitations for the interim period prior to freeway construction of Kellogg.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. A six (6) to eight (8) foot masonry screening wall and a landscape buffer shall be provided along the north and west property line of Parcel 2 where it adjoins property with residential zoning, or upon concurrence with the property owner, the existing evergreen hedge row or a 6-foot cedar fence may be used to satisfy the masonry screening wall requirement.
2. General Provision 7(G) shall be revised to state, "All freestanding signs shall have a maximum height of 20 feet for Parcels 2 and 5-12 and 30 feet for Parcels 1, 3, and 4.
3. A Site Circulation Plan shall be submitted to the Traffic Engineer for approval. This Plan shall include a smooth flowing internal drive with no parking spaces taking direct access from the drive that connects Reserve "A" with Reserve "B" across Parcel 1.
4. General Provision #26 shall be revised to state "This C.U.P. shall be restricted to a maximum gross floor area of 627,000 square feet, and provided that the site generated traffic does not exceed 23,000 vehicles per day until such time as Kellogg (US-54) is improved to a freeway standard."
5. The following transportation improvements shall be guaranteed at the time of replatting or provided as onsite improvements:

A. Kellogg Accel/Decel Lane Interim Improvements: Decel lane begins west of Ellson and continues to Zelta, and with a possible accel lane east of Zelta if required by KDOT. (*guarantee*)

B. Kellogg and Ellson Interim Improvements: Channelize the center median at Kellogg and provide a raised, channelized median in the drive to eliminate all left turn movements except the eastbound left turn movement to the area north of Kellogg. (*guarantee*)

C. Kellogg and Zelta Interim Improvements:

Northbound dual-left turn lanes with 200 feet of storage (provide a raised median from Kellogg to Reserve "B" with a single right-turn lane and a combined left-turn/through lane). (*private improvement*)

Southbound left/through/right lanes should match those of the northbound segment. (*guarantee*)

Eastbound single-left turn lane with 100 feet of storage. (*guarantee*)

Westbound single-left turn lane with 350 feet of storage or dual left lanes with 300 feet of storage if required by KDOT. (*guarantee*)

Installation of signalization, including provision of apron for anchoring the signal of sufficient width for three lanes for the southbound leg of the intersection. (*guarantee*)

D. Kellogg & Greenwich Interim Improvements:

Westbound single-left turn lane with 400 feet of storage. (*guarantee*)

Eastbound right-turn decel lane with 100 feet of storage

Extension of northbound left turn lane to a total length of 250 feet. (*guarantee*)

E. Permanent Improvements to Greenwich Road and Reserve "A":

Permanent improvements as per City standards of Greenwich Road as a four-lane section from the taper under the bridge at I-35 (KTA) to north of Reserve "A", ending approximately at Orme. (*guarantee*)

Northbound single-right turn decel lane with 100 feet of storage. (*guarantee*)

Southbound single-left turn lane with 300 feet of storage. (*guarantee*)

Westbound single-left turn lane with 150 feet of storage (provide raised center median) and westbound single-right turn lane with 320 feet of storage. (*private improvement*)

Signalization, when warranted. (*guarantee*)

F. Kellogg Drive Permanent Improvements: Construct Kellogg Drive per City standards when Kellogg is built to freeway standards. (*guarantee*)

6. The development of this property shall proceed in accordance with the revised development plan, as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. All property included within this C.U.P. and zone case shall be replatted within one year after approval of this C.U.P. and rezoning by the Governing Body, or the cases shall be considered denied and closed.
10. Prior to issuing a building permit on any portion of the C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-196) includes special conditions for development on this property.
11. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
12. The maximum number of buildings permitted on Parcel 12 shall be two (2).

WARREN moved, **LOPEZ** seconded the motion, and it carried unanimously (12-0).

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14. Case No. ZON2001-01 – Mike Shell (Owner/Applicant); Baughman Company PA c/o Phil Meyer (Agent) request zone change from "LI" Limited Industrial to "SF-6" Single-Family Residential and "NO" Neighborhood Office.

DALE MILLER, Planning staff, "This item has been deferred."

MICHAELIS "Do we need a motion to defer it?"

MILLER "We probably need to defer it for something like two months. This is one of the ones that is involved in a court case."

MICHAELIS "Can we just defer it until further notice?"

KROUT "If we do that, we will have to re-advertise. Maybe that is just as well in this case because we are going to have to notify those other neighbors in some manner. I think we could."

MOTION: That the item be deferred indefinitely.

GAROFALO moved, **COULTER** seconded the motion, and it carried unanimously (12-0).

15a. Case No. CUP2001-04 DP62 Chelsea Station Community Unit Plan Amendment #7 – Sun Chancellor, L.P. dba Claremont Companies (owner); Robert W. Kaplan (agent) request an amendment to Chelsea Station CUP Amendment #7 to create Parcel 13 for commercial use; described as:

Lot 3, Block 1, E.E. Jabes Addition to Wichita, Sedgwick County, Kansas. And,

15b. Case No. ZON2001-00008 - Sun Chancellor, L.P. dba Claremont Companies (owner); Robert W. Kaplan (agent) request a zone change from "MF-18" Multi-Family to "LC" Limited Commercial on property described as:

That part of Lot 3, Block 1, E.E. Jabes Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the Northeast corner of said Lot 3; thence South 00 degrees 33'13" East along the East line of said Lot 3, 820.00 feet to the Southeast corner of said Lot 3; thence South 89 degrees 26'47" West along the South line of said Lot 3, 250.00 feet to the P.C. of a curve to the right in said South line; thence Westerly along said curve, having a central angle of 18 degrees 25'33" and a radius of 350.53 feet, an arc distance of 112.73 feet, (having a chord length of 112.24 feet bearing North 81 degrees 20'26" West), to the P.C. of a curve to the left; thence Northerly along said curve, having a central angle of 27 degrees 55'39" and a radius of 340.00 feet, an arc distance of 165.73 feet, (having a chord length of 164.09 feet bearing North 13 degrees 38'43" East), to the P.T. of said curve; thence North 00 degrees 19'07" West, 93.98 feet; thence North 89 degrees 40'53" East, 2.71 feet; thence North 00 degrees 52'58" West, 74.81 feet; thence North 01 degree 08'58" East, 22.27 feet to a corner of a 20 foot water easement (Film 374, Page 1195); thence North 00 degrees 00'15" East along the West line of said 20 foot water easement, 265.00 feet to a corner of said 20 foot water easement; thence South 89 degrees 59'45" East along the North line of said 20 foot water easement, 13.75 feet; thence North 00 degrees 15'48" West, 187.07 feet to a point on the North line of said Lot 3; thence North 89 degrees 26'47" East along the North line of said Lot 3, 299.94 feet to the point of beginning. Generally located on the southeast corner of Rock Road and Bradley Fair Parkway.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting that Parcel 9 be divided into two parcels. Parcel 13, the new parcel, would be 5.96 acres in size and be located along the west side of Rock Road, north of Rockhill. It would be zoned "LC" Limited Commercial. The remainder of Parcel 9, which is 7.34 acres, would keep its current zoning classification of "MF-18" Multi-Family. Also, the applicant is requesting that a second point of access be allowed on the northern edge of the tract along Rock Road.

Currently, Parcel 9 is developed with Sundance Apartments. The applicant proposes to raze the clubhouse and the ten apartment buildings nearest to Rock Road. The property would be redeveloped with the following commercial uses: retail, general; restaurants, excluding drive-in and drive-through; banks or financial institutions; ATM; offices; medical services; personal care services; and personal improvement services. Maximum gross floor area would be 31,167 square feet (12 %), with a maximum of four buildings and a maximum building height of 35 feet.

DP-62 is part of a large Residential and Non-Residential Community Unit Plan begun in the 1970s. Total size of the C.U.P. is 160 acres. It is a mixed-use development with uses ranging from single-family residential to the shopping center located at the intersection of 21st Street North and Rock Road. The shopping center is now anchored by Best Buy, but includes a site for a discount store, small retail and service businesses, and two restaurant pad sites. The C.U.P. has another apartment complex along 21st Street North, as well as a day care and offices. There are also offices along Rock Road south of Rockhill. Rockhill/Broadmoor serves as the collector through the C.U.P. The residential uses south and west of Rockhill/Broadmoor include duplexes, single-family residences and townhouses.

The property to the east of Rock Road is developed with three restaurants and the Bradley Fair Shopping Center.

CASE HISTORY: The application area is platted as Lot 3, Block 1 of E.E. Jabes Addition, recorded June 5, 1974. The C.U.P. was originally approved in January 29, 1974. An administrative adjustment was approved on January 25, 1979, to increase the combined number of dwelling units permitted on Parcels 8 and 9 from 491 to 495 dwelling units. As a condition of this administrative adjustment, the two parcels were tied together as a unit and the developer guaranteed to keep the seven acres on the northern half of Parcel 9 (Lot 4, Block 1, E.E. Jabes Addition) as open space for recreational purposes of the apartments and other residential uses nearby (Restrictive Covenant dated April 29, 1979, inuring to the benefit of the City of Wichita and remaining in full force and effect until April 25, 2004).

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial	Shopping Center, restaurants
EAST: "LC" Limited Commercial	Bradley Fair Shopping Center, restaurants
SOUTH: "GO" General Office	Offices
WEST: "MF-18 Multi-Family	Apartments, townhouses, duplexes, single-family

PUBLIC SERVICES: The site has access directly onto Rockhill, where there is a signalized intersection with Rock Road, and is allowed one point of access onto Rock Road. This access point is located near the center of the parcel's frontage on Rock. The applicant has asked for a second point of access near the northern edge of the property.

This segment of Rock Road has one of the highest levels of traffic of any arterial street in Wichita. Average daily traffic in 1997 was 28,709 vehicles per day. This is projected to increase to 37,948 by 2030. A traffic study ("Bradley Fair Shopping Center Traffic Impact Study, Wichita, Kansas," HWS Consulting Group Inc., February 3, 1999) identified improvements on Rock to handle the large traffic volumes. One of these improvements is to put a raised median with lengthened storage for southbound left-turns from Rock to Bradley Fair Parkway. When this raised median is installed the existing entrance to Parcel 13 would become right-in/right-out only. The requested second point of access also interferes with the storage lane for the southbound left turns.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide to the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows this area for high-density residential use.

RECOMMENDATION: High-density residential uses generate significantly lower volumes of traffic than commercial activities. The apartments generate about 1000 trips per day. If the application were developed with a quality restaurant, a high-turnover restaurant, some general retail, and a bank, the estimated traffic would be three times the rate generated by the apartments. While the change may seem to be relatively minor with respect to the amount of commercial development already located along the North Rock Road corridor, it could compromise the effectiveness of the public improvements slated for Rock Road.

This would worsen the situation on North Rock Road, and be contrary to the efforts underway as a result of the HWS traffic study to alleviate traffic congestion. These improvements involve eliminating several left-turn movements in order to move traffic on North Rock Road without as many points of conflict.

Further, any additional opening is moving in the opposite direction of improving traffic flow on Rock Road. The applicant has not provided an update to the HWS traffic study or suggested any additional traffic improvements to compensate for the diminished level of service that could result from this intensification of development.

The applicant has indicated that they intend to replace the apartments removed along North Rock Road with more apartments on the northern portion of Parcel 8 along Broadmoor. Yet this is the area governed by the Restrictive Covenant that tied development of the two parcels together as a single development and pledged not to convert the seven acres of open space into apartment use. Staff feels apartment development using this seven-acre area is contrary to the approved C.U.P. and should not be allowed unless the C.U.P. is amended to specifically permit this change. To date, the applicant has not filed a request to amend the C.U.P. in this manner. Further, should the C.U.P. be amended and the commercial development also be permitted, this would simply add more traffic in the vicinity along North Rock Road and 21st Street North.

Based on these conditions, plus the information available prior to the public hearing, Staff recommends the request be DENIED.

However, should MAPC choose to approve the request, Staff would recommend approval be subject to the following conditions:

- A. APPROVE the zone change (ZON2001-00008) to "LC" Limited Commercial, .
- B. APPROVE the Community Unit Plan Amendment #7 (DP-62), subject to the following conditions:
 1. Access on North Rock Road shall remain as one point of access only, as shown on the C.U.P. and the subdivision plat. This point of access would become right-in/right-out upon completion of the scheduled improvements to North Rock Road.
 2. Complete access control shall be provided on Rockhill for 250 feet from the intersection with Rock in order to allow storage length at the traffic signal.
 3. Additional right-of-way shall be dedicated along Rockhill to allow additional lanes and to match with lanes opposite the intersection on Bradley Fair Parkway.
 4. The traffic signal at Rock and Bradley Fair/Rockhill shall be upgraded to provide for left-turn phasing.

5. No apartment units shall be constructed on the northern seven acres of Parcel 8 unless the request is filed and approved for such amendment to the C.U.P.
6. General Provision #1 shall be revised to reflect conversion of Parcel 13 from a residential to a commercial parcel.
7. General Provision #7A shall be revised to require a six (6) to eight (8) foot solid or semi-solid wall constructed of stone, masonry, architectural tile or other similar material (excluding wood or woven wire) on the west property line of Parcel 13.
8. General Provision #7E shall be added to require that landscaping on Parcel 13 be provided per the Landscape Ordinance.
9. General Provision #8 shall be revised to add Parcel 13.
10. General Provision #10 shall be revised to add:

For Parcel 13, all freestanding signs on Rock Road and Rockhill shall be monument type with a maximum height of 20 feet, and shall be spaced a minimum of 150 feet apart regardless of leasing or ownership of the parcel. No sign shall exceed 150 feet in size. No flashing or moving signs shall be permitted. No portable or off-site signs shall be permitted.
11. Add a general provision to state that trash receptacles and roof-top equipment shall be screened to reasonably hide them from ground level view, with screening being constructed of materials and/or landscaping compatible with and complementary to the exterior of the buildings to which they provide service. Loading docks and service areas shall also be screened from Rock Road, Rockhill and the residential areas to the west with screening walls and/or landscaping approved by the Planning Director.
12. Add a general provision to state that a plan for a pedestrian walk system shall be a requirement of the C.U.P. The walk system shall link proposed buildings with the sidewalks along Rock Road and Rockhill.
13. Add a general provision to state that all buildings in Parcel 13 shall have similar materials, color, and texture. Metal shall not be used as a predominate exterior building material on any l.
14. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
15. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
16. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
17. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

- 1 The zoning, uses and character of the neighborhood: Commercial uses on property zoned "LC" Limited Commercial are located to the north and east of Parcel 13. Office uses are located on the "GO" General Office tracts to the south. The properties to the west are zoned "MF-18" and developed with a variety of residential uses, including single-family, duplex, townhouses, and apartments.

2. The suitability of the subject property for the uses to which it has been restricted: The site is already in use as the Sundance Apartments and could continue to be used in this manner.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conversion of the property from apartments to commercial uses would generate more traffic and would deteriorate the level of service on North Rock Road. If left-turn movements in and out of Parcel 13 to Rock Road are allowed, it will jeopardize the planned improvements by conflicting with southbound left-turn storage for the signalized intersection at Rock and Bradley Fair/Rockhill.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: Commercial use is not in conformance with the Comprehensive Plan, although the properties to the north and east are shown for commercial use.
5. Impact of the proposed development on community facilities: The conversion from apartments to commercial use will add significant traffic to Rock Road and 21st Street North, and contribute to a detrimental impact on the level of service for Rock Road.

GOLTRY "This is a request to carve out a new parcel, Parcel 13 along Rock Road from where the Sundance Apartments are. We have the Sundance Clubhouse in this location. They are requesting that it also be rezoned from 'B' Multi-family to 'LC' from 'MF-18'. This case will be going to DAB II on March 5.

The aerial is kind of old, so let me refresh your memory on how developed the area is. (Indicating) This is the Best Buy, where they have just relocated. The ShopKo, we hear is going out of business, and here is Applebee's. Most of the Bradley Fair area has been developed since this aerial. There are a couple of restaurants behind it, we have offices to the south; we have all of the new commercial in this area (southeast); a lot of apartments and a big open space.

The basic request is to raze 160 units in 10 buildings of the Sundance Apartments along Rock Road and turn it into retail. They are showing fairly low intensity, but a retail development that might have a bank, a restaurant and some similar type uses. They have also discussed with us in staff, but have not filed the request, to use the area on the residual of the open space for apartments (Indicating to the northern half of Parcel 8). Now, I want to call to your attention that there is a recorded restrictive covenant from 1979 that governs that particular open space area where it was pledged to be left open for at least 25 years, inuring to the benefit of the City of Wichita because it came out of one of the early amendments to this case. There are a lot of different kinds of residential development in the area. There are apartments, townhouses, condominium-types and then we have single-family duplex. Then we have the little open-space area.

Down at the corner of Rockhill and Bradley Fair where they intersect with Rock Road is a important component for us to talk about in terms of transportation issues. Bradley Fair Parkway is a collector street that is a semi-circle type collector that goes from Rock Road and connects with 21st Street. This is an area where we do have a good collector-type system established. It connects with what is Rock Hill on the southern leg and then when it turns and goes back to 21st to the West, it becomes Broadmoor. So we have a nice little connector system going in this area.

As I point out in the 'Recommendations', changing from high density apartment use to commercial use is still going to lead to the intensification of the traffic demand. I think—from the response I got from staff, I may have underestimated—I said three times the rate of generation of apartments that would be the potential traffic demand. Maybe it would be more like 3 to 5 times. While this may seem like a relatively small request, the important thing to remember is Rock Road is the area where we have had the HWS Traffic Study. We have a lot of public improvements scheduled there and we are already closing other access openings in this particular area along Rock Road. Why? The reason is to try to fix the problems on Rock Road that we already have with the overuse of that particular segment and traffic conflicts.

The applicant has asked that this be re-zoned to Limited Commercial, but more than that, they have also asked for an additional opening on the very northern part of their parcel, which would be contrary to the HWS Plan to try to reduce the traffic conflicts and straighten out the Rock Road traffic. So I think that is a pretty strong recommendation that if we give them another opening on Rock Road, we have actually taken a step backward instead of forward.

Also, I want to point out that there was talk by the applicant that we could do the apartment units by Administrative Adjustment because they haven't exceeded their density on the tracts, but I believe that based on the Restrictive Covenant, and the amendment that placed that restrictive covenant on the land, it would be contrary to the spirit and intent of the CUP. And therefore, if they have any intent to rebuild apartments after they raze them on Rock Road if this application approved, that would require that they come in for a formal CUP amendment—a further amendment of the case.

I was going to ask if Jamsheed (Mehta) wanted to talk more about the traffic improvements as far as staff comments. I think he can give them better. We have several staff recommendations that we are recommending denial on because of the overload on Rock Road; but were you to approve, we do have some recommendations on things we think will mitigate the impact this is going to have on Rock Road.

The first I have already touched on, that Rock Road shall remain one point of access only where it is currently shown on the current CUP and that will become a right/in right/out access only when the median is constructed on Rock Road. That

there will be complete access control from the intersection where the signal light is at Rockhill and Rock Road for 250 feet to provide adequate storage for the people coming out of this parcel to queue up to this traffic signal to get onto Rock Road. That additional right-of-way is going to be needed along Rockhill to be able to field traffic improvements, and finally, if you look at the traffic signal right now, Bradley Fair Parkway is wider than the Rockhill side is, and we need to get those lanes to inline with one another across the way.

Are there any other things, Jamsheed, in terms of traffic? Okay. The rest of the recommendations have more to do with technical clean-up matters of bringing the CUP into the 20th Century. I will refer to their site, clean-up things like this wall that is required between commercial and apartments and landscaping requirements and signage. I will stand for questions."

MCKAY "How are you going to line up that one, we are talking about the north side of Rockhill, and if you take land from that, it is going to make it more offset than it already is. Are you going to take it away from all of those properties on the south?"

GOLTRY "You would use some of the extra right-of-way, probably for the right-turn lanes into it. That would be your right-turn decel lane."

MCKAY "You just made the comment that the one on the east side was not lining up with the one on the west side."

GOLTRY "It is not as wide."

MCKAY "I understand that. It lines up on the north side but it doesn't on the south side. Are you going to take it away from the property on the south side or off-set it to the north?"

GOLTRY "You may have me there. You are saying..."

MCKAY "Rockhill, on both sides of Rock Road line up. The application area is to the north side. You just made the comment that we have to get some land so that we can line those up. If you take it from the north, you are going to make it worse than it already is. My question is, are you planning on taking it from the south properties?"

GOLTRY "No. And what I should have stated is that Bradley Fair Parkway is a divided median that has two lanes on each side, and Rock Hill has only two lanes, maybe three. They just kind of feed in there, so you don't have as many lanes lined up—you don't have as much width to work with."

MARNELL "When does that covenant expire?"

GOLTRY "In 2004."

MICHAELIS "Thank you, Ms. Goltry. We will hear from the applicant, please."

BOB KAPLAN "I am here for the applicant. Today, I have Steve Martens up here from we know as R.D. Martens, now Grubb and Ellis. I want him at the podium for a few minutes as the marketing broker. Because I knew that this was a traffic case more than a zoning case, I started with Bill McKinley very early. Bill McKinley was retained by my client to work on these traffic studies and talk to the traffic study by HWS. So I want Bill to have a little bit of time at the podium. I guess if they wanted that time, they shouldn't have let me go first, but I will try to be quick.

Basically, the whole staff emphasis here, Commissioners, is on traffic. I don't think that there is any issue about the highest and best use of this property being Limited Commercial. I don't have to tell you what you already know—we are entitled to the most advantageous economic use and that is Limited Commercial. I think that is a given. I really don't think that is an issue. As you read the staff report, it is all focused around traffic. We have been zoning commercial up and down Rock Road. I don't think that the commercial enhances the residential flavor of Sundance. I think it actually diminishes from it. What we want to do is what Donna said we want to do, we want to demolish 10 buildings, each of 16 DU, and we may build at the back. That is not a discussion today.

Commissioner Marnell, you asked about when that covenant expires. I don't have that on the floor today. We talked about maybe coming back to this area and perhaps doing that. I don't want to spend my time on this today. There is no application on file, there is a not request on file. I want to talk about this Rock Road. When Claremont Properties acquired this, I got the original HWS Traffic Study, and this is why I got Bill involved. The original traffic study provides for a cut for Laham's development for Bradley Fair for southbound Rock Road traffic to turn left.

If you look at the original traffic study, the suggestion was to move the Sundance entrance to the north and combine it with the left-turn to the east going into Bradley Fair Park. We bought the property believing that we had access there. That somewhere along the line, between the original HWS draft and the final traffic study, when the Rock Road design was approved by the City Council a few weeks back, we lost our left turn.

When Councilman Pisciotte made that motion, they accepted the design with access control, except for this one right turn approach, subject to further discussions with landowners. That is us. So, what I am getting at, if you approve this, which maybe I don't have any right to assume, but I think it is pretty clearly a commercial site, the only condition really that I have some difficulty with in the conditions is Condition No. 1; limiting the Rock Road access to the right turn only. We can

accept one Rock Road access. That is okay, but I don't want, at this time, to get into all of these platting issues. Staff suggested that we haven't done a total traffic study—we haven't. Mr. McKinley is working on that. He is working with HWS out of Omaha and we are working on this traffic situation. What is presented in the staff report and what we are talking about is more platting issues than they are zoning issues.

I don't mind talking about traffic today, it is a big issue. There is no question about that. It is a legitimate issue that we have to work out, but I don't want to get hamstrung on access at this early date. If we zone this, we recommend zoning and it gets to Limited Commercial, then I want the opportunity, at least the opportunity at platting, to come in with some additional traffic study and to have Mr. McKinley finish his report and be able to discuss access at that time. If we can't get a plat, even if we get the zoning, if we can't get a plat that works, and our only access is going to be off of Rockhill down here (indicating), this isn't going to work anyway.

So platting is going to be very, very important and traffic is going to be very, very important, but it is too premature to make all of those traffic decisions and to make traffic restrictions on us at this point in time until we know more about what we are doing and until McKinley gets finished; until he finishes discussion with HWS and we get back with staff.

Basically, I don't have a lot to say about the zoning. I think that the focus is strictly on traffic. There really is no justification for denying the zoning simply because the property is currently multi-family and because additional traffic studies may be necessary is not a reason to suggest that this property is not Limited Commercial, which it clearly is. The only thing I am afraid of here today is getting conditions imposed, which make it impossible to develop a property before we get to those issues, which are part of the platting process. What I would like to have you do is listen for a few minutes to Steve. I know it is late, but give us a couple of minutes for Bill McKinley can bring you up to date on what he has been doing for me."

MICHAELIS "Okay. Are there any questions of Mr. Kaplan? Thank you."

STEVE MARTENS "I am with Grubb and Ellis, Marten's Commercial Group. I appreciate the opportunity to be here this afternoon. I don't want to go over anything that Bob has covered, but I would just like to take a few minutes and point out from a land use and real estate perspective, that this is a classic re-use property. A 1979 apartment project, given the change in the area, the degree of the development that has gone on, apartment buildings on Rock Road, the opportunity to take approximately 6-1/2 acres and change into a new development up to current standards makes perfect sense. This is an opportunity for Wichita to have some additional national restaurant and retail operations. We worked very extensively with out of town site selectors, and as you all know and have heard through time, 21st Street and Rock Road is where they want to be.

This piece of property lends itself very nicely to work in two, three or four of those kinds of uses. It certainly will be a high end project and a quality project, but I think to be able to change the frontage at some later date to talk about this parcel and how it may be more fully utilized and put into play, I think works well. I would be happy to answer any questions if there are any."

WARREN "I don't want to get into traffic on this either, but do you anticipate getting cross-lot easements between that and the property to the north?"

MARTENS "I am going to defer that to Mr. Kaplan."

KAPLAN "You mean any cross-easement type of things? No, hadn't thought about it. That is Applebee's to the north, that is Jim Stevens. I wouldn't have any real problem with it. I hadn't thought about any cross easements. We don't have any shared drive-way capacity.

The problem was we had this recommendation, this was in the design, a left turn here (indicating) to coordinate with Bradley Fair and then somewhere it got dropped out of there. Part of the criticism, if I might, part of the criticism was where was your client, Kaplan, for four or five years while we have been doing all of this. They didn't own it; Claremont only bought it in November of 1999, so we have only had it about a year. The Traffic Study was completed in February of 1999, and we had that opening. I didn't know we had lost it."

MICHAELIS "Are there any further questions of the applicant? Okay."

BILL MCKINLEY "I am a Traffic Engineer, and I would like to just talk a little bit about the traffic problems. What Mr. Kaplan is talking to you about, and what I have been trying to do is work with HWS. Originally in their rough draft report of February 3, 1999, they stated that they needed to extend the southbound Rock Road left turn to provide enough stacking for those left turns to accommodate the Bradley Fair additional 100,000 square foot of commercial and that would require that the Sundance Apartment driveway be further located to the north.

In order to accommodate this recommendation, the driveway relocation would need to be approved by all parties. We don't believe that that has been addressed to this point. We do not know why it disappeared. I did ask HWS to help us to address this point. I do believe they can accommodate this northbound left turn into this site. Going back a number of years when Bradley Fair was proposed out here as a Wal-Mart site, we did propose, at that time, that there be some additional locations along Rock Road that would not be signalized."

MICHAELIS "Are there any questions of Mr. McKinley? Thank you, sir. Is there anyone else in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition? Seeing none, I will bring it back to the Commission."

GAROFALO "Maybe I do have a question of Mr. McKinley. Could you tell us what kind of traffic study are you going to do?"

MCKINLEY "Basically, I think that this consultant was the consultant for Bradley Fair and for the City. He is a consultant for Bradley Fair on the proposed additional commercial. He is also the consultant for the City of Wichita on the Rock Road project. In this report, he indicates that he needs to work with Sundance Apartments to move the left turn that they presently have to the north. I would like to see that consultant work with us in providing that point of access. I believe that this is critical for the development of this site. It was part of the earlier approval of this site a number of years ago. I believe it can be accommodated and also not be a detriment to the traffic flow along Rock Road."

OSBORNE-HOWES "How do you know that it was part of the improvement for the site?"

MCKINLEY "Because the left turn exists today."

OSBORNE-HOWES "Are you talking about the second access opening?"

MCKINLEY "There is only one point of access today, and it has a left turn today."

OSBORNE-HOWES "I'm sorry, I thought you were talking about the second access that you are requesting."

MCKINLEY "We are recommending that it only have one point of access, but that point of access will have a left-turn bay. It could be moved to the north. That is what they said in this report."

PLATT "Let's be sure that we are clear on this. Your proposal is one point of access to Parcel 13?"

MCKINLEY "That is correct. Wherever this point of access is. If it cannot be accommodated here like the HWS study, it would be someplace between here and this point."

PLATT "Wait a minute. There are two points there."

MCKINLEY "This one doesn't exist."

PLATT "Okay. That one doesn't exist. You are not proposing that it will exist in the future?"

MCKINLEY "We are recommending that we can get by with one point of access. It could be there, but we are only recommending that we can get by with one point of access to Rock Road."

PLATT "And you want both left and right turns in and out of it."

MCKINLEY "We believe that that would be to the advantage if you put it at the right location to both Rock Road traffic and to the developer's traffic."

OSBORNE-HOWES "Would a deferral work? I am just wondering if you are actually requesting that we need to talk with this consultant? Why don't we just defer this? I guess the reason I am asking the question is that if traffic is such an important part of it and the reason that the staff is recommending denial and the reason that we are discussing all of this, why not just get more information before we vote on it?"

KAPLAN "I wouldn't quarrel with a deferral if that is the pleasure of the Commission. We will accept the deferral, but Mr. McKinley is currently working with HWS. My perspective on this is that these matters would be better dealt with at the time of platting. I got Mr. McKinley started early simply because I knew, going in, from the development review meeting with staff at the very beginning of this thing that traffic was the focus of this thing and that that this was a traffic issue and not a land use issue. So I brought Bill in very early and we started on it. I would like to do it at the time of platting, but if you want to address it now, so be it."

OSBORNE-HOWES "Well, my follow-up is to go back again where it says that traffic is obviously the reason that all of this discussion and haranguing is going on. I am thinking if he is saying that he wants to work with the consultant so he can figure this out, I don't know that personally I feel comfortable with voting on this until I have more information. I guess what I am saying is that traffic is the issue to the point where I think it would affect how I feel about the zoning, and whether, in fact, you are correct that that is the highest and best use, whether it is possible at this point. That is just what I was thinking."

KAPLAN "If the platting does not lend itself to viable marketing, then there won't be any development regardless of zoning, and I guess I am not understanding why we can't, as we traditionally do, take it up at the time of platting, which will give us time to do all of this massaging we need to do."

But if the Commission wants to defer it, we will go along with that and we will attempt to complete our traffic study and bring it back if that is what you would rather do."

MCKAY "Bob, the staff has recommended for denial. But in the event that we should recommend for approval, there are 17 items they recommend. Have you covered all of them and are you comfortable with all 17 items?"

KAPLAN "Except for Item No. 1, Commissioner, and that is limiting the Rock Road access to right in/right out. If I had my druthers, I would like to keep the right in/right out and still have the left turn. That is what I would prefer, but we will take one point of access, if that is a deal breaker. I believe that my client will accept one point of access, but I have to have left-turn capability. Otherwise, I've got no development. That was the original recommendation by HWS that we have left turn. I don't know where it went. It just kind of fell out of site somewhere between the report and the final approval by the Council."

MCKAY "So if we would say to approve this subject to that being worked out, that would work?"

KAPLAN "Yes. That would be very acceptable, John."

MCKAY "So you are saying one item then?"

KAPLAN "Item No. 1. I have been over it with Mr. Martens, have been over it with the client. Item No. 1 is kind of the deal breaker in the thing. We've only got about 20,000 square feet in this whole thing. It is a very light intensity use. Can we defer Item No. 1 to platting? That would do it?"

MCKAY "I don't believe so, at this time. It is so tied in with the zoning."

KAPLAN "All right. You've got the last word. I would accept it that way, approval, subject to resolution of Item No. 1."

MCKAY "Give me the consensus of the Commission."

WARREN "Make a motion and you will find out."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Commercial uses on property zoned "LC" Limited Commercial are located to the north and east of Parcel 13. Office uses are located on the "GO" General Office tracts to the south. The properties to the west are zoned "MF-18" and developed with a variety of residential uses, including single-family, duplex, townhouses, and apartments. The suitability of the subject property for the uses to which it has been restricted: The site is already in use as the Sundance Apartments and could continue to be used in this manner. Extent to which removal of the restrictions will detrimentally affect nearby property: The conversion of the property from apartments to commercial uses would generate more traffic and would deteriorate the level of service on North Rock Road. If left-turn movements in and out of Parcel 13 to Rock Road are allowed, it will jeopardize the planned improvements by conflicting with southbound left-turn storage for the signalized intersection at Rock and Bradley Fair/Rockhill. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: Commercial use is not in conformance with the Comprehensive Plan, although the properties to the north and east are shown for commercial use. Impact of the proposed development on community facilities: The conversion from apartments to commercial use will add significant traffic to Rock Road and 21st Street North, and contribute to a detrimental impact on the level of service for Rock Road.) I move that we recommend to the governing body that the request be approve, subject to the following:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The monopole shall not exceed 165 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The compound shall be enclosed by a minimum six-foot high solid screening fence.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of

- FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- H. An Airport Hazard Zoning Permit Exemption for Area C shall be acquired by the applicant prior to the issuance of a building permit.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. Any violation of the conditions of approval shall render the Conditional Use null and void.

MCKAY moved, **HENTZEN** seconded the motion.

KROUT "What does worked out mean, and when?"

MCKAY "What do you mean, when?"

KROUT "Do you mean that we shouldn't send it on to the City Council until the staff thinks it is okay?"

MCKAY "No. Until you guys come up with words. You want the location. There seems to be, out there, a traffic report that says it is supposed to be in one place. The Traffic Engineer, who was up here for years and years and probably knows more about Rock Road than any of us, says he is trying to work with the people. I am saying to you that we approve the zoning, subject to Item No. 1b. being taken care of through the Traffic Engineer and these people working with the staff. You are shaking your head no. Why?"

KROUT "Please defer this for 4 weeks. Zoning and land use are related. You are talking about adding 3,000 cars per day to a road that is the busiest road and the most troublesome road. We are perfectly willing for you to defer this and let HWS work with the applicant on it. I think we are very dubious that you can provide left storage for this and left storage for Bradley Fair as it has been developed, and all of the projections that HWS has done, but they are intricately tied. This is not just a platting issue. It is the impact on community facilities."

MCKAY "Okay. I will withdraw my motion, if the second will go along with it."

MICHAELIS "Mr. Hentzen, will you withdraw your second?"

HENTZEN "Why, sure!"

MICHAELIS "Okay, the motion has been withdrawn."

MOTION: That the item be deferred for 4 weeks.

LOPEZ moved, **OSBORNE-HOWES** seconded the motion.

WARREN "I think we have the votes here to approve the zoning, because I think it is reasonable what the agent has said that we have no justification for denying 'LC' out there. Now, the question, it looks to me like, if we approve the zoning and denied him the right to a left-hand turn, or do we approve the zoning and leave that up to his ability to get the left-hand turn lane?"

KROUT "Those are two choices. You have at least two more. One is to defer it and one is to deny it."

WARREN "Well, I know, but like I say, I think we have the votes to approve the zoning and that approval would simply take out this requirement that he be denied a left-hand turn. I don't think we ought to make that determination."

LOPEZ "Commissioner Warren, I am making the motion based on the comment of the agent who said he would be comfortable with a deferral."

WARREN "I think he would rather have my motion."

MICHAELIS "Without any further discussion, we will vote on the motion on the floor, to defer for 4 weeks."

MOTION: The motion carried with 10 votes in favor, and 2 in opposition (Warren and Marrell).

16. **A 00-23 – The City of Wichita seeks the annexation of properties, generally located north of 21st Street North and east and west of Hoover Road.**

KROUT "This is the third stage of the annexation along Hoover Road. We are asking you to find this consistent with the Comprehensive Plan. If you have any questions, I will try to answer them."

MOTION: That the request be found consistent with the Comprehensive Plan.

OSBORNE-HOWES moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

18. Comments on draft of MAPC annual report for 2000.

KROUT "This is the draft of the Annual Report for 2000. Do any of you have comments on the Annual Report that you would like to talk about this evening or let us know and then we will send out a final draft for your approval at the next meeting. Are there any comments? If there aren't any comments, you can go ahead and approve it and we will have the Chair sign it and not have to put it back on the agenda."

PLATT "Could you improve the table on Page 2 a little bit? That is a tough one to read."

MILLER "Yes."

KROUT "We can work on that. That is Dale's invention."

PLATT "It is a difficult table to do."

KROUT "We will look at what we can do and bring something back to you."

PLATT "Maybe some footnotes that would point out that all cases from here don't go on to the City and County. Explain some of the discrepancies between columns."

KROUT "Okay, we will look at that and put something back on your next agenda."

MICHAELIS "Before we leave, and I forgot before and I think we need to do it, and that is to recognize Dr. Coulter as our new Commission member and welcome you. This wasn't a typical meeting and wasn't really an atypical meeting either. We are pleased to have you with us. If there are no other matters, I would entertain a motion to adjourn."

MOTION: That the Metropolitan Area Planning Department formally adjourn.

WARNER moved, **OSBORNE-HOWES** seconded the motion, and it carried unanimously (12-0).

The meeting formally adjourned at 6:45 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)